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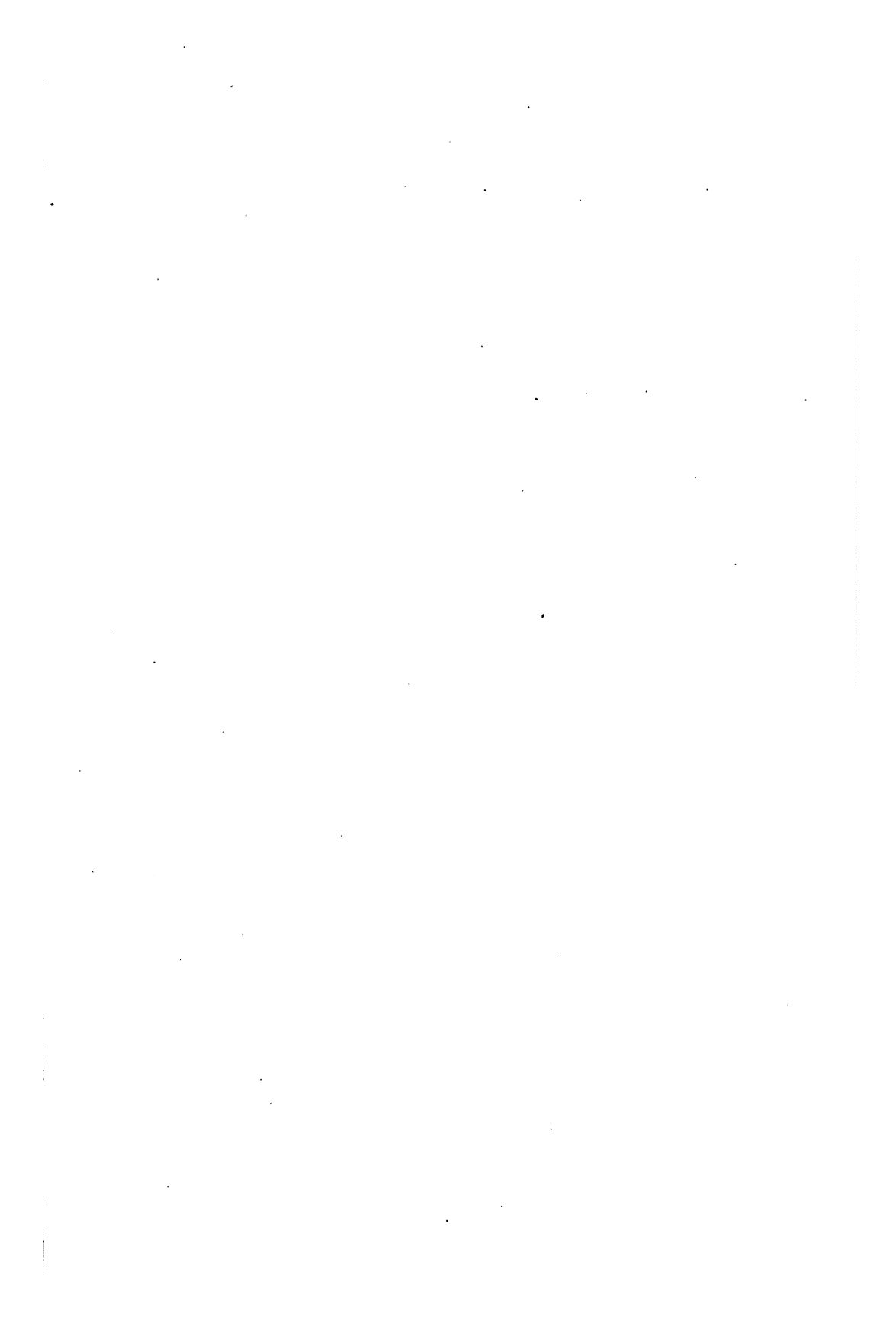
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STATUTES
OF THE
STATE OF OREGON
RELATING TO
ELECTIONS
1907

COMPILED FROM

**Bellinger and Cotton's Annotated Codes and Statutes,
and From the Laws of 1903, 1905
and 1907**

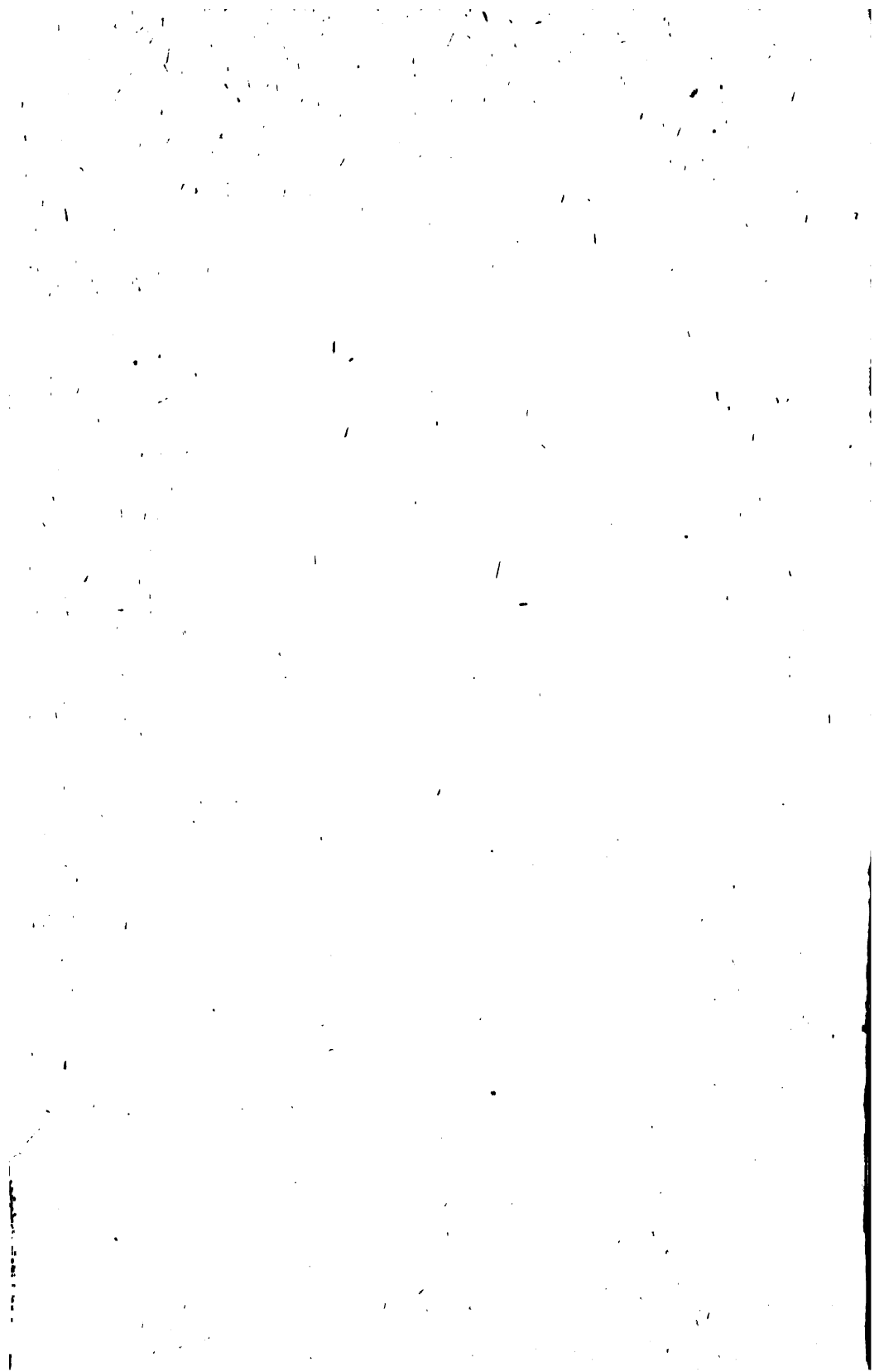
ALSO

**Such Provisions of the Constitution of Oregon, and
Such Statutes of the United States, as
Pertain to Elections in
this State**

Compiled by F. W. Benson, Secretary of State

SALEM, OREGON
WILLIS S. DUNIWAY, STATE PRINTER
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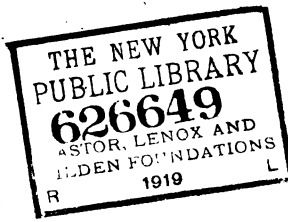
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LAW AUTHORIZING THIS COMPILATION.

§ 2828, B. & C. Comp. Election Supplies Furnished by Secretary of State.

It shall be the duty of the Secretary of State, not less than six months before every biennial election in this State, to compile the election laws of the State and index the same, and cause the same to be printed in suitable pamphlet form for the use of the judges of election; also suitable poll books, required by and in accordance with section 22 of this act; also tally sheets, required by and in accordance with section 24 of this act; also "register of nominations" books, required by section 39 of this act; also receipts, required by and in accordance with section 55 of this act; needles for stringing ballots and stubs, as required by sections 23 and 64 of this act, and indelible "copying" pencils, suitable for canceling the names of candidates not voted for, as required by section 59 of this act; and he shall forthwith proceed and distribute the same to the several county clerks in the State, in appropriate quantities. The bills for furnishing said pamphlet copies of the election laws, for ruling, printing, and binding such poll books, blanks, receipts, register of nominations, and tally sheets, and procuring said needles and pencils, and for preparing and delivering the same, as required by this act, shall be audited by the Secretary of State and paid out of any moneys in the treasury not otherwise appropriated. [L. 1891, p. 30, § 68; H. C. p. 1194g.]

NOTE.—This compilation of the statutes of this State relating to elections and the registration of voters contains only such statutes as relate to or in any manner affect the duties and authority of judges and clerks of election, and other officers directly connected therewith. Those statutes heretofore published with the election laws which relate to the canvass of votes by the county clerks, election contests, resignations, vacancies, and terms of office, offices to be filled, boundaries of counties, senatorial and representative districts, and such other statutes as are purely local in their application, are omitted in this compilation, and for information on such matters reference should be made to the code and the session laws of 1903, 1905 and 1907.

SECRETARY OF STATE.

University of Oregon Library, Treas., 23 Oct. 1918

UNITED STATES STATUTES DEFINING CITIZENSHIP.

[Revised United States Statutes, p. 351.]

§ 1992. Native Born Persons.

All persons born in the United States and not subject to any foreign power, excluding Indians not taxed, are declared to be citizens of the United States.

§ 1993. Children Born Abroad.

All children heretofore born or hereafter born out of the limits and jurisdiction of the United States, whose fathers were or may be at the time of their birth citizens thereof, are declared to be citizens of the United States; but the rights of citizenship shall not descend to children whose fathers never resided in the United States.

§ 1994. Married Women.

Any woman who is now or may hereafter be married to a citizen of the United States, and who might herself be lawfully naturalized shall be deemed a citizen.

§ 1995. Persons Born in Former Territory of Oregon.

All persons born in the district of country formerly known as the Territory of Oregon, and subject to the jurisdiction of the United States on the eighteenth day of May, 1872, are citizens in the same manner as if born elsewhere in the United States.

§ 1996. Army Deserters Forfeit Right of Citizenship.

All persons who deserted the military or naval service of the United States and did not return thereto or report themselves to a provost marshal within sixty days after the issuance of the proclamation of the President, dated the eleventh day of March, 1865, are deemed to have voluntarily relinquished and forfeited their rights of citizenship, as well as their rights to become citizens; and such deserters shall be forever incapable of holding any office of trust or profit under the United States, or of exercising any rights of citizenship thereof.

§ 1997. Certain Soldiers and Sailors Excepted.

No soldier or sailor, however, who faithfully served according to his enlistment until the nineteenth day of April, 1865, and who without proper authority or leave first obtained, quit his command or refused to serve after that date, shall be a deserter from the army or navy; but this section shall be construed solely as a removal of any disability such soldier or sailor may have incurred under the preceding section, by the loss of citizenship and of the right to hold office in consequence of his desertion.

§ 1998. Defining an Army Deserter.

Every person who hereafter deserts the military or naval service of the United States, or who, being duly enrolled, departs the jurisdiction of the district in which he is enrolled, or goes beyond the limits of the United States, with intent to avoid any draft into the military or naval service lawfully ordered, shall be liable to all the penalties and forfeitures of section 1996.

§ 1999. Right of Expatriation Declared.

Whereas the right of expatriation is a natural and inherent right of all people, indispensable to the enjoyment of the rights of life, liberty, and the pursuit of happiness; and whereas, in the recognition of this principle, this government has freely received emigrants from all nations, and invested them with the rights of citizenship; and whereas it is claimed that such American citizens, with their descendants, are subjects of foreign states, owing allegiance to the government thereof; and whereas it is necessary to the maintenance of public peace that this claim of foreign allegiance should be promptly and finally disallowed: therefore, any declaration, instruction, opinion, order, or decision of any officer of the United States which denies, restricts, impairs, or questions the right of expatriation is declared inconsistent with the fundamental principles of the republic.

§ 2000. Naturalized Citizens Protected in Foreign States.

All naturalized citizens of the United States, while in foreign countries, are entitled to and shall receive from this government the same protection of persons and property which is accorded to native-born citizens.

UNITED STATES STATUTES RELATIVE TO THE ELECTIVE FRANCHISE.

[Revised United States Statutes, p. 353.]

§ 2003. Interference by Army or Naval Officers.

No officer of the army or navy of the United States shall prescribe or fix, or attempt to prescribe or fix, by proclamation, order, or otherwise, the qualification of voters in any State, or in any manner interfere with the freedom of any election in any State, or with the exercise of the free right of suffrage in any State.

§ 2004. Race, Color, or Previous Condition Not to Affect the Right to Vote.

All citizens of the United States who are otherwise qualified by law to vote at any election by the people in any state, territory, district, county, city, parish, township, school district, municipality, or other territorial subdivision, shall be entitled and allowed to vote at all such elections without distinction of race, color, or previous condition of servitude, any constitution, law, custom, usage, or regulation of any State or Territory, or by or under its authority, to the contrary notwithstanding.

UNITED STATES STATUTES DEFINING CRIMES AGAINST ELECTIVE FRANCHISE.

[Revised United States Statutes, p. 1073.]

§ 5507. Intimidating Voters by Bribery or Threats.

Every person who prevents, hinders, controls, or intimidates another from exercising, or in exercising, the right of suffrage, to whom that right is guaranteed by the fifteenth amendment to the Constitution of the United States, by means of bribery or threats of depriving such person of employment or occupation, or of ejecting such person from a rented house, lands, or other property, or by threats of refusing to renew leases or contracts for labor, or by threats of violence to himself or family, shall be punished as provided in the preceding section.

§ 5508. Conspiracy to Injure or Intimidate Citizens in the Exercise of Civil Rights.

If two or more persons conspire to injure, oppress, threaten, or intimidate any citizen in the free exercise or enjoyment of any right or privilege secured to him by the constitution or laws of the United States, or because of his having so exercised the same; or if two or more persons go in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured, they shall be fined not more than \$5,000 and imprisoned not more than ten years and shall, moreover, be thereafter ineligible to any office or place of honor, profit, or trust created by the constitution or laws of the United States.

§ 5509. Other Crimes Committed in Violating Preceding Section.

If, in the act of violating any provision in either of the two preceding sections, any other felony or misdemeanor be committed, the offender shall be punished for the same with such punishment as is attached to such felony or misdemeanor by the laws of the State in which the offense is committed.

§ 5510. Depriving Citizens of Civil Rights Under Color of State Laws.

Every person who, under color of any law, statute, ordinance, regulation, or custom, subjects or causes to be subjected, any inhabitant of any State or Territory to the deprivation of any rights, privileges, or immunities secured or protected by the constitution and laws of the United States, or to different punishments, pains, or penalties, on account of such inhabitant being an alien, or by reason of his color or race, than are prescribed for the punishment of citizens, shall be punished by a fine of not more than \$1,000, or by imprisonment not more than one year, or by both.

§ 5511. Fraudulent Voting at Elections, etc.

If, at any election for representative or delegate in Congress, any person knowingly personates and votes, or attempts to vote, in the name of any other person, whether living, dead, or fictitious; or votes more than once at the same election for any candidate for the same office; or votes at a place where he may not be lawfully entitled to vote; or votes without having a lawful right to vote; or does any unlawful act to secure an opportunity to vote for himself, or any other person; or by force, threat, intimidation, bribery, reward, or offer thereof, unlawfully prevents any qualified voter of any State, or any Territory, from freely exercising the right of suffrage, or by

any such means induces any voter to refuse to exercise such right, or compels or induces, by any such means, any officer of an election in any such State or Territory to receive a vote from a person not legally qualified or entitled to vote; or interferes in any manner with any officer of such election in the discharge of his duties; or by any such means, or other unlawful means, induces any officer of an election or officer whose duty it is to ascertain, announce, or declare the result of any such election, or give or make any certificate, document, or evidence in relation thereto, to violate or refuse to comply with his duty or any law regulating the same; or knowingly receives the vote of any person not entitled to vote, or refuses to receive the vote of any person entitled to vote, or aids, counsels, procures, or advises any such voter, person, or officer to do any act hereby made a crime, or omit to do any duty the omission of which is hereby made a crime, or attempt to do so, he shall be punished by a fine not more than \$500 or by imprisonment not more than three years, or by both, and shall pay the costs of the prosecution.

§ 5512. Fraudulent Registration, etc.

If, at any registration of voters for an election for representative or delegate in the Congress of the United States, any person knowingly personates and registers, or attempts to register, in the name of any other person, whether living, dead, or fictitious, or fraudulently registers, or fraudulently attempts to register, not having a lawful right so to do; or does any unlawful act to secure registration for himself or any other person; or by force, threat, menace, intimidation, bribery, reward, or offer, or promise thereof, or other unlawful means, prevents or hinders any person having a lawful right to register from duly exercising such right; or compels or induces by any such means or other unlawful means, any officer of registration to admit to registration any person not legally entitled thereto, or interferes in any manner with any officer of registration in the discharge of his duties, or by any such means, or other unlawful means, induces any officer of registration to violate or refuse to comply with his duty or any law regulating the same; or if any such officer knowingly and wilfully registers as a voter any person not entitled to be registered, or refuses to so register any person entitled to be registered; or if any such officer or other person who has any duty to perform in relation to such registration or election, in ascertaining, announcing, or declaring the result thereof, or in giving or making any certificate, document, or evidence in relation thereto, knowingly neglects or refuses to perform any duty required by law,

§ 5508. Conspiracy to Injure or Intimidate Citizens in the Exercise of Civil Rights.

If two or more persons conspire to injure, oppress, threaten, or intimidate any citizen in the free exercise or enjoyment of any right or privilege secured to him by the constitution or laws of the United States, or because of his having so exercised the same; or if two or more persons go in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured, they shall be fined not more than \$5,000 and imprisoned not more than ten years and shall, moreover, be thereafter ineligible to any office or place of honor, profit, or trust created by the constitution or laws of the United States.

§ 5509. Other Crimes Committed in Violating Preceding Section.

If, in the act of violating any provision in either of the two preceding sections, any other felony or misdemeanor be committed, the offender shall be punished for the same with such punishment as is attached to such felony or misdemeanor by the laws of the State in which the offense is committed.

§ 5510. Depriving Citizens of Civil Rights Under Color of State Laws.

Every person who, under color of any law, statute, ordinance, regulation, or custom, subjects or causes to be subjected, any inhabitant of any State or Territory to the deprivation of any rights, privileges, or immunities secured or protected by the constitution and laws of the United States, or to different punishments, pains, or penalties, on account of such inhabitant being an alien, or by reason of his color or race, than are prescribed for the punishment of citizens, shall be punished by a fine of not more than \$1,000, or by imprisonment not more than one year, or by both.

§ 5511. Fraudulent Voting at Elections, etc.

If, at any election for representative or delegate in Congress, any person knowingly personates and votes, or attempts to vote, in the name of any other person, whether living, dead, or fictitious; or votes more than once at the same election for any candidate for the same office; or votes at a place where he may not be lawfully entitled to vote; or votes without having a lawful right to vote; or does any unlawful act to secure an opportunity to vote for himself, or any other person; or by force, threat, intimidation, bribery, reward, or offer thereof, unlawfully prevents any qualified voter of any State, or any Territory, from freely exercising the right of suffrage, or by

any such means induces any voter to refuse to exercise such right, or compels or induces, by any such means, any officer of an election in any such State or Territory to receive a vote from a person not legally qualified or entitled to vote; or interferes in any manner with any officer of such election in the discharge of his duties; or by any such means, or other unlawful means, induces any officer of an election or officer whose duty it is to ascertain, announce, or declare the result of any such election, or give or make any certificate, document, or evidence in relation thereto, to violate or refuse to comply with his duty or any law regulating the same; or knowingly receives the vote of any person not entitled to vote, or refuses to receive the vote of any person entitled to vote, or aids, counsels, procures, or advises any such voter, person, or officer to do any act hereby made a crime, or omit to do any duty the omission of which is hereby made a crime, or attempt to do so, he shall be punished by a fine not more than \$500 or by imprisonment not more than three years, or by both, and shall pay the costs of the prosecution.

§ 5512. Fraudulent Registration, etc.

If, at any registration of voters for an election for representative or delegate in the Congress of the United States, any person knowingly personates and registers, or attempts to register, in the name of any other person, whether living, dead, or fictitious, or fraudulently registers, or fraudulently attempts to register, not having a lawful right so to do; or does any unlawful act to secure registration for himself or any other person; or by force, threat, menace, intimidation, bribery, reward, or offer, or promise thereof, or other unlawful means, prevents or hinders any person having a lawful right to register from duly exercising such right; or compels or induces by any such means or other unlawful means, any officer of registration to admit to registration any person not legally entitled thereto, or interferes in any manner with any officer of registration in the discharge of his duties, or by any such means, or other unlawful means, induces any officer of registration to violate or refuse to comply with his duty or any law regulating the same; or if any such officer knowingly and wilfully registers as a voter any person not entitled to be registered, or refuses to so register any person entitled to be registered; or if any such officer or other person who has any duty to perform in relation to such registration or election, in ascertaining, announcing, or declaring the result thereof, or in giving or making any certificate, document, or evidence in relation thereto, knowingly neglects or refuses to perform any duty required by law,

or violates any duty imposed by law, or does any act unauthorized by law relating to or affecting such registration or election, or the result thereof, or any such certificate, document, or any evidence in relation thereto, or if any person aids, counsels, procures, or advises, any such voter, person, or officer to do any act hereby made a crime, every such person shall be punishable as prescribed in the preceding section.

§ 5513. What Deemed a Registration Under Last Section.

Every registration made under the laws of any State or Territory, for any state or other election at which such representative or delegate in Congress may be chosen, shall be deemed a registration within the meaning of the preceding section, notwithstanding such registration is also made for the purposes of any state, territorial, or municipal election.

§ 5514. Voting or Offering to Vote in Certain Cases Prima Facie Evidence, etc.

Whenever the laws of any State or Territory require that the name of a candidate or person to be voted for as representative or delegate in Congress shall be printed, written, or contained on any ticket or ballot with the names of other candidates or persons to be voted for at the same election as state, territorial, municipal, or local officers, it shall be deemed sufficient *prima facie* evidence to convict any person charged with voting, or offering to vote, unlawfully, under the provisions of this chapter, to prove that the person so charged cast, or offered to cast, such a ticket or ballot whereon the name of such representative or delegate might by law be printed, written, or contained, or that the person so charged committed any of the offenses denounced in this chapter with reference to such ticket or ballot.

§ 5515. Violation of Duty by Officers of Election.

Every officer of election at which any representative or delegate in Congress is voted for, whether such officer of election be appointed or created by or under any law or authority of the United States, or by any state, territorial, district, or municipal law or authority, who neglects or refuses to perform any duty in regard to such election required of him by any law of the United States, or of any State or Territory thereof; or who violates any duty so imposed; or who knowingly does any acts thereby unauthorized, with intent to affect such election or the result thereof; or who fraudulently makes any false certificate of the result of such election in regard to such rep-

representative or delegate; or who withholds, conceals, or destroys any certificate of record so required by law respecting the election of any such representative or delegate; or who neglects or refuses to make or return such certificate as required by law; or who aids, counsels, procures, or advises any voter, person, or officer to do any act by this or any of the preceding sections made a crime, or attempts to do so, shall be punished as prescribed in section 5511.

§ 5516. Obstructing Execution of Process in Civil Rights Cases.

Every person who wilfully obstructs, hinders, or prevents any officer or other person charged with the execution of any warrant or process issued under the provisions of sections 1984 and 1985, title "Civil Rights," or any person lawfully assisting him, from arresting any person for whose apprehension such warrant or process may have been issued; or rescues, or attempts to rescue, such person from the custody of the officer or other person lawfully assisting when so arrested, pursuant to the authority herein given; or aids, abets, or assists any person so arrested, directly or indirectly, to escape from the custody of the officer or other person legally authorized to arrest the party; or harbors or conceals any person for whose arrest a warrant or process has been issued, so as to prevent his discovery and arrest, after notice or knowledge of the fact that a warrant has been issued for the apprehension of such person, shall, for any of such offenses, be subject to a fine of not more than \$1,000, or imprisonment not more than six months, or both.

§ 5517. Marshal Refusing to Receive or Execute Process.

Every marshal or deputy marshal who refuses to receive any warrants or other process when tendered to him, issued in pursuance of the provisions of section 1985, title "Civil Rights," or refuses or neglects to use all proper means diligently to execute the same, shall be liable to a fine in the sum of \$1,000, for the benefit of the party aggrieved thereby.

§ 5518. Conspiracy to Prevent Accepting or Holding Office Under the United States, etc.

If two or more persons in any State or Territory conspire to prevent, by force, intimidation, or threat, any person from accepting or holding any office, trust, or place of confidence under the United States, or from discharging any duties thereof; or to induce by like means any officer of the United States to leave any state, district, or place where his duties as an officer are required to be performed, or to injure him in his person or property on account of his lawful

discharge of the duties of his office, or while engaged in the lawful discharge thereof, or to injure his property so as to molest, interrupt, hinder, or impede him in the discharge of his official duties, each of such persons shall be punished by a fine of not less than \$500 nor more than \$5,000, or by imprisonment, with or without hard labor, not less than six months nor more than six years, or by both such fine and imprisonment.

§ 5519. Conspiracy to Deprive any Person of the Equal Protection of the Laws.

If two or more persons in any State or Territory conspire, or go in disguise on the highway or on the premises of another, for the purpose of depriving, either directly or indirectly, any person or class of persons of the equal protection of the laws, or of equal privileges and immunities under the laws; or for the purpose of preventing or hindering the constituted authorities of any State or Territory from giving or securing to all persons within such State or Territory the equal protection of the laws, each of such persons shall be punished by a fine of not less than \$500 nor more than \$5,000, or by imprisonment, with or without hard labor, not less than six months nor more than six years, or by both such fine and imprisonment.

§ 5528. Unlawful Presence of Troops at Elections.

Every officer of the army or navy, or other person in the civil, military, or naval service of the United States, who orders, brings, keeps, or has under his authority or control, any troops or armed men at any place where a general or special election is held in any State, unless such force be necessary to repel armed enemies of the United States or to keep the peace at the polls, shall be fined not more than \$5,000, and suffer imprisonment at hard labor not less than three months nor more than five years.

§ 5529. Intimidation of Voters by Officers, etc., of Army or Navy.

Every officer or other person in the military or naval service, who, by force, threat, intimidation, order, advice, or otherwise, prevents, or attempts to prevent, any qualified voter of any State from freely exercising the right of suffrage at any general or special election in such State, shall be fined not more than \$5,000, and imprisoned at hard labor not more than five years.

§ 5530. Officers of Army or Navy Prescribing Qualifications of Voters.

Every officer of the army or navy who prescribes or fixes, or attempts to prescribe or fix, whether by proclamation, order, or other-

wise, the qualifications of voters at any election in any State, shall be punished as provided in the preceding section.

§ 5531. Interference of Same With Officer of Election, etc.

Every officer or other person in the military or naval service who, by force, threat, intimidation, order, or otherwise, compels, or attempts to compel, any officer holding an election in any State to receive a vote from a person not legally qualified to vote, or who imposes, or attempts to impose, any regulations for conducting any general or special election in a State different from those prescribed by law, or who interferes in any manner with any officer of an election in the discharge of his duty, shall be punished as provided in section 5529.

§ 5532. Disqualification for Holding Office.

Every person convicted of any of the offenses specified in the five preceding sections shall, in addition to the punishments therein severally prescribed, be disqualified from holding any office of honor, profit, or trust under the United States; but nothing in those sections shall be construed to prevent any officer, soldier, sailor, or marine from exercising the right of suffrage in any election district to which he may belong, if otherwise qualified according to the laws of the State in which he offers to vote.

PROVISIONS OF CONSTITUTION OF OREGON RELATING TO, ELECTIONS.

ARTICLE II.

SUFFRAGE AND ELECTIONS.

§ 1. Elections Free.

All elections shall be free and equal.

The Lockwood law, providing a method for holding primary elections for the selection of delegates to nominating conventions, imposes no restraint upon electors and does not deny them their proper influence and is not in conflict with this section: *Ladd v. Holmes*, 40 Or. D. 167, 66 Pac. 714.

To be "free" means that the voter shall be left to the untrammelled exercise, whether by civil or military authority, of his right or privilege; that is to say, no impediment or restraint of any character shall be imposed upon him, either directly nor indirectly, whereby he shall be hindered or prevented from participation at the polls. The word "equal" has a different signification: every elector has the right to have his vote counted for all it is worth in proportion to the whole number of qualified electors desiring to exercise their privilege; so that the terms free and equal, used as they are correlatively, signify, not only that the election shall be open and untrammelled to all persons endowed with the elective franchise, but shall be closed to all not in the enjoyment of such privilege: *Ladd v. Holmes*, 40 Or. 167.

§ 2. Qualifications of Electors.

In all elections not otherwise provided for by this constitution, every white male citizen of the United States, of the age of twenty-one years and upwards, who shall have resided in the State during the six months immediately preceding such election; and every white male of foreign birth of the age of twenty-one years and upwards, who shall have resided in this State during the six months immediately preceding such election, and shall have declared his intention to become a citizen of the United States one year preceding such election, conformably to the laws of the United States on the subject of naturalization, shall be entitled to vote at all elections authorized by law.

The fifteenth amendment of the United States Constitution rendered of no legal force or effect this provision restricting the elective franchise to white persons: *Wood v. Fitzgerald*, 3 Or. 579.

The qualification of voters here set forth applies to general elections provided for by the constitution, but does not apply to election of school directors. A law allowing women to vote at school elections is therefore not prohibited by this provision of the constitution: *Harris v. Burr*, 32 Or. 360, 62 Pac. 17.

The office of county school superintendent is a county office requiring of the incumbent the qualifications of a county elector; a woman not being within these qualifications is not entitled to hold such office: *State v. Stevens*, 29 Or. 473, 44 Pac. 898.

A statute requiring previous registration as a condition of exercising the right to vote is void. This section prescribes the qualification of electors, and the legislature cannot add others: *White v. County Commissioners*, 13 Or. 319, 10 Pac. 484, 57 Am. Rep. 20.

The Lockwood law, however, prescribing registration but permitting those who have not registered to vote upon certain conditions is not unconstitutional within this provision: *Ladd v. Holmes*, 40 Or. 167, 66 Pac. 714.

§ 3. Idiots, Insane, and Convicts.

No idiotic or insane person shall be entitled to the privileges of an elector; and the privilege of an elector shall be forfeited by a conviction of any crime which is punishable by imprisonment in the penitentiary.

The term "conviction," as used here, is used in the primary and ordinary sense, and signifies proving or finding that the defendant is guilty either by the verdict of the jury, or his plea to that effect, and does not include the punishment which follows thereon. A crime is punishable by imprisonment in the penitentiary when by any law it may be so punished, and the fact that it also may be or is otherwise punished does not change its grade or character in this respect; hence where the punishment provided by statute for a certain crime was either imprisonment in the penitentiary, or a fine, and a person upon conviction by pleading guilty was punished by a fine, but not by imprisonment, he forfeited his right to vote under this provision of the constitution: *United States v. Watkins*, 6 Fed. 152.

The authority of this decision is perhaps avoided by the amendment to section 1230, of 1895, which reads: "Felony is a crime which is punishable with death or by imprisonment in the penitentiary of this State. When a crime punishable by imprisonment in the penitentiary is also punishable by a fine or imprisonment in the county jail in the discretion of the court, it shall be deemed a misdemeanor for all purposes after a judgment imposing punishment other than imprisonment in the penitentiary."

This section does not operate as a restriction on the pardoning power. Pardon by the Governor restores to the person receiving it the privileges of an elector forfeited by the crime: *Wood v. Fitzgerald*, 3 Or. 158.

§ 4. Residence.

For the purpose of voting, no person shall be deemed to have gained or lost a residence by reason of his presence or absence while employed in the service of the United States, or of this State; nor while engaged in the navigation of the waters of this State, or of the United States, or of the high seas; nor while a student of any seminary of learning; or while kept at any almshouse or other asylum at public expense; nor while confined in any public prison.

Though an employe of the United States, or of the State, does not gain or lose a residence by reason of his presence or absence in such service, he may, by appropriate steps, gain a residence at such point as he may desire independently of such employment: *Wood v. Fitzgerald*, 3 Or. 568.

§ 5. Soldiers, Seamen, and Marines Not to Vote—Residence of.

No soldier, seaman, or marine in the army or navy of the United States, or of their allies, shall be deemed to have acquired a residence in the State in consequence of having been stationed within the same; nor shall any such soldier, seaman, or marine have the right to vote.

§ 6. Negroes, Chinamen, etc.

No negro, chinaman, or mulatto shall have the right of suffrage.

Negroes or mulattoes born or naturalized in the United States and subject to the jurisdiction thereof by virtue of the fourteenth amendment are now citizens of the United States and the State wherein they reside, and, therefore, by virtue of the fifteenth amendment, are entitled to the right of suffrage in this State the same as white persons; and the same is true of all persons born or naturalized in the United States and subject to the jurisdiction thereof: *The Slaughterhouse Cases*, 16 Wall. 71. See note on article II, section 2, *ante*.

§ 7. Bribery at Elections.

Every person shall be disqualified from holding office during the term for which he may have been elected who shall have given or offered a bribe, threat, or reward to procure his election.

A promise by a candidate for a county office to the voters of his county that if elected he will pay a certain part of the salary of the office into the county treasury, though very objectionable on the grounds of public policy, is not an offer of a bribe or reward within the meaning of this section, unless the voters sought to be influenced thereby are taxpayers of the county, or would in some way be benefited by the performance of the offer: *State v. Dustin*, 5 Or. 375.

§ 8. Election Laws.

The legislative assembly shall enact laws to support the privilege of free suffrage, prescribing the manner of regulating and conducting elections, and prohibiting, under adequate penalties, all undue influence therein, from power, bribery, tumult, and other improper conduct.

§ 9. Penalty for Dueling.

Every person who shall give or accept a challenge to fight a duel, or shall knowingly carry to another person such challenge, or who shall agree to go out of the State to fight a duel, shall be ineligible to any office of trust or profit.

§ 10. Lucrative Offices.

No person holding a lucrative office or appointment under the United States, or under this State, shall be eligible to a seat in the legislative assembly; nor shall any person hold more than one lucrative office at the same time, except as in this constitution expressly permitted; *provided*, that officers in the militia, to which there is attached no annual salary, and the office of postmaster, where the compensation does not exceed \$100 per annum, shall not be deemed lucrative.

The office of deputy collector of internal revenue is a "lucrative office," within the meaning of this section: *Hermann's Case*, Senate Journal, 1870, p. 32.

§ 11. Ineligibility to Office of Collector, When.

No person who may hereafter be a collector or holder of public money, shall be eligible to any office of trust or profit, until he shall have accounted for and paid over, according to law, all sums for which he may be liable.

§ 12. Temporary Appointment to Office.

In all cases in which it is provided that an office shall not be filled by the same person more than a certain number of years continuously, an appointment *pro tempore* shall not be reckoned a part of that term.

§ 13. Privileges of Electors.

In all cases except treason, felony, and breach of the peace, electors shall be free from arrest in going to elections, during their attendance there, and in returning from the same; and no elector shall be obliged to do duty in the militia on any day of election, except in time of war or public danger.

§ 14. Time of Holding Elections.

General elections shall be held on the first Monday of June, biennially.

§ 15. How Votes to be Given.

In all elections by the legislative assembly, or by either branch thereof, votes shall be given openly or *viva voce* and not by ballot, forever, and in all elections by the people, votes shall be given openly or *viva voce* until the legislative assembly shall otherwise direct.

"Election," as here used, is equivalent to "appointment": *State v. Thompson*, 34 Or. 33, 54 Pac. 349.

§ 16. Plurality Elects.

In all elections held by the people under this constitution, the person or persons who shall receive the highest number of votes shall be duly declared elected.

§ 17. Place of Voting.

All qualified electors shall vote in the election precinct in the county where they may reside for county officers, and in any county in the State for state officers, or in any county of a congressional district in which such electors may reside for members of Congress.

When an individual is a *bona fide* resident of a county, but has no fixed residence or domicile in any particular precinct therein, he may vote in any precinct in which he finds himself on the day of election: *Wood v. Fitzgerald*, 3 Or. 668. Failure to vote for precinct officers raises no presumption that the voter was not a resident of the precinct: *Van Winkle v. Crabtree*, 34 Or. 478, 55 Pac. 831.

STATUTES RELATING TO ELECTORS.

CHAPTER IX.

OF THE REGISTRATION OF VOTERS.

[Bellinger and Cotton's Annotated Codes and Statutes of Oregon.]

§ 2860. Providing Registration Books and Blanks.

It is hereby made the duty of the county clerk of each county in this State, between May 1 and December 15, 1899, and biennially thereafter between said dates, to procure a sufficient supply of all the books and blanks required by this chapter and to register all the electors in the county. The board of commissioners of each county shall order to be paid out of the county treasury the reasonable and necessary expenses so incurred by the county clerk. [L. 1899, p. 119, § 1.]

§ 2861. Form of Registration Book and Elector's Oath.

Said registration book shall be ruled and printed upon twenty-four pound folio, superfine white paper, so that each double page may be twenty-two inches wide and seventeen inches long. They shall be ruled and printed alike for all counties in the State. There shall be one or more volumes, well bound with leather backs and corners and cloth sides, for each county, large enough to contain the names of all the electors in the county, called the "General County Register." Each general county register shall have four blank leaves, suitably ruled, in the front, to facilitate making an index to the several precincts in the county, and the pages shall be numbered consecutively on the upper right-hand corner of each double page. Each county clerk shall, before proceeding to register electors, suitably divide his general county register into as many parts as there are election precincts in his county, and index the several precincts in the front of the volume. There shall be one registration book, bound in tag board, with cloth strips on the back, for each election precinct in each county in the State, called the "Precinct Register for Precinct, County"; and its pages shall be alphabetically indexed on the margin so as to facilitate registering the electors in the precinct in alphabetical order, according to surnames. These precinct registers shall be bound in different sizes so as to suit the different precincts. Size one shall contain eight double pages, size two shall contain sixteen double pages, size three shall contain thirty-two double pages, size four shall contain forty-eight double

pages. The paper, size of pages, ruling, and printing shall be the same as used for the general county register, but the pages need not be numbered. Said registration books shall be ruled and printed substantially in the following form:

OFFICIAL REGISTER OF ELECTORS FOR ----- PRECINCT, ----- COUNTY,
OREGON.

[illegible]

The following form of oath shall be printed perpendicularly in the column headed "oath": "I, having been first duly sworn, say, upon oath, that I am a qualified elector, and the statements here entered opposite my name, as to my qualifications as an elector, are true." [L. 1899, p. 119, § 2; L. 1901, p. 366, § 23.]

§ 2862. Form of Registration Blanks.

The following registration blanks, designated as "Registration blank A," and "Registration blank B," shall be printed upon sixteen-pound cap, superfine paper, eight and one half inches wide, and fourteen inches in length, with a blank margin of one inch on the left-hand side of the blank, the back of which margin shall be gummed five eighths of an inch in width. They shall be furnished in pads of one hundred each:

OREGON REGISTRATION BLANK "A."

This blank serves for three purposes: For registering with a notary public or justice of the peace, as provided in section 2868, in which case two witnesses are necessary; also for use if challenged under section 3873, when six witnesses may be required; also under section 2874, when the elector is not registered in the precinct, when he must subscribe to this blank three times and produce six freeholders as witnesses, who must all sign the second affidavit.

STATE OF OREGON,

County of } ss.

I, the undersigned elector, do solemnly swear (or affirm) that my name and signature as signed below is my true name and signature. If I have not personally signed it, it is because; and it was signed at my request by the attesting officer. My age is years, and occupation; nativity; naturalized or declared my intention in court, in County, State, on, 19.., as appears by the naturalization papers exhibited herewith. Present residence is in section, township, range, County, Oregon; or (if town or city) at No., Street, in the city of; I occupy room on the floor; that I have resided in this State during the six months immediately preceding this election.

In testimony whereof I sign my name three times.

(1) _____,
(2) _____,
(3) _____,

Elector.

NOTE.—If unable to sign, let the officer write his name and so state.

We, the undersigned witnesses, do swear that our names and signatures are genuine; that we are each personally acquainted with the elector and his residence, as stated; that we believe all his other statements are true, and that we are each freeholders in the county.

Signatures. *Residence.*

Subscribed and sworn to by the elector and witnesses before me this day of, 190...

Justice of the Peace for District.

(Erase one title to suit.)

Notary Public for Oregon.

OREGON REGISTRATION BLANK "B."

For use if the elector has changed residence after registering, in order to cancel the same. By canceling his former registration in this manner he can again register in his present precinct and county. See sections 2870 and 2871.

STATE OF OREGON,

County of } ss.

I, the undersigned elector, do solemnly swear (or affirm) that my name and signature as signed below is my true name and signature. If I have not personally signed it, it is because; and it is signed at my request by the attesting officer. That while a resident of precinct, in County, Oregon, I registered, but on day of, 190 .., I moved my residence to section, township, range, County, Oregon; or (if in city) to No., Street, in the city of; I occupy room on the floor.

I, therefore, request the cancellation of my registration in said precinct, County, Oregon.

Elector.

NOTE.—If unable to sign, let the officer sign his name and so state.

We, the undersigned witnesses, do swear that our names and signatures are genuine; that we are each personally acquainted with the elector and his residence, as stated; that we believe all his other statements are true, and that we are each freeholders in this county.

Signatures.

Residence.

Subscribed and sworn to by the elector and the two witnesses before me this day of, 190...

Justice of the Peace for District.

(Erase one title to suit.) Notary Public for Oregon (or other officer).

[L. 1899, p. 122, § 3; L. 1901, p. 366, § 23.]

§ 2863. Clerk of County Court to Act, When.

In all counties in this State which have no county clerk, the clerk of the county court shall perform all the duties required by this chapter to be done or performed by the county clerks in the other counties, and he shall be compensated in the same manner. [L. 1899, p. 123, § 4.]

The above section as enacted provided that "In Multnomah County and in all other counties in the State," etc. In view of the act abolishing the office of clerk of the county court and recreating the office of county clerk (§§ 2569-2571) the section has been changed to read as above.

§ 2864. Time of Registration.

It shall be the duty of every elector in the State of Oregon, between the first Monday in January, 1900, and 5 o'clock P. M. of the fifteenth day of May, 1900, and between the same dates and hours biennially thereafter, to register with some notary public or justice of the peace, or with the county clerk of the county in which the elector resides, in accordance with this chapter. [L. 1899, p. 123, § 5.]

§ 2865. County Clerk Must Enter Elector's Name.

It shall be the duty of the county clerk in each county, between the first Monday in January, 1906, and 5 o'clock P. M. of the fifteenth day of May, 1906, and between the same dates and hours biennially thereafter; and between the twentieth day of September, 1904, and 5 o'clock P. M. of the twentieth day of October, 1904, and between the same dates in each and every year thereafter in which there shall be an election of presidential electors, to enter upon the proper register every person who complies with the requirements of this chapter and claims to be an elector residing in the county. If the clerk refuses to enter the name of any qualified elector, such elector may proceed by mandamus to compel him to do so; *provided*, that the county clerk shall not register any elector during the period beginning

on the fifty-fourth day and ending on the forty-first day immediately preceding the general biennial June election; *and provided further*, that this law shall not operate to prevent any additional registration of voters required by the charters or ordinances of any city or town within the provisions of section 6 of this law. [L. 1905, p. 37, § 39.]

§ 2866. Manner of Registration.

Every elector may be registered without charge by personally appearing in the office of said clerk and after being duly sworn, stating the following facts, which the clerk or his deputy shall appropriately enter in black ink, at first in the general county register. The electors shall be numbered consecutively 1, 2, 3, etc., in each precinct as they are registered in the general county register. The clerk shall inquire of the elector, and enter the following information in the general county register, in the division set off for the precinct in which the elector resides, to wit: (1) The registration number of the elector; (2) the date of registering the elector; (3) the full name of the elector; (4) leave a blank space in which the judges of election shall enter in the precinct register the poll book number of each elector when he has voted; (5) the business or occupation of the elector; (6) the age of the elector in years; (7) the country of nativity; (8) if naturalized, the time, place, and court of naturalization or declaration, as evidenced by the legal proof thereof, exhibited by the elector; (9) the actual and precise place of residence of the elector at the time of his registering, stating first the precinct, and, if in the country, the section, township, and range; and in cities and towns having streets, by specifying the name of the town or city, the street or other location of or dwelling place of the elector, with the number of such dwelling, if the same has a number; if not, then with such description of the place that it can readily be ascertained and identified; if the elector be not the head or proprietor of the house, then it must show that fact, and upon what floor thereof, and what room such elector occupies in such house; (10) the fact whether or not the elector desiring to be registered is able to write his name and mark his ballot, and if he can not do both, then the nature of such disability must be entered; (11) the elector shall then, next following the aforeadministered oath, sign his name in the presence of the clerk, or the deputy acting, in the general register upon the same line where the preceding information is written, and the registering officer shall then sign his own name upon the said line, and add any remark required by this chapter or appropriate thereto for the in-

formation of the judges of election. If the elector is registered by the clerk in person, he shall so sign his own name in attestation thereof, and if the elector is registered by a deputy, then, in addition to the name of the clerk, the particular deputy actually registering the elector shall sign his name, at length, in attestation thereof. If the elector declares he is unable to mark his ballot or sign his name he shall state why, and the clerk shall enter upon the register the reasons. If the elector's inability to sign is apparent, in consequence of some physical infirmity, such as blindness or loss of limb, incapacitating the elector from writing, he shall so state the fact; but if the disability is stated to be the illiteracy of the elector, the clerk shall, in addition to stating that fact, enter as full a description of the physical peculiarities of the elector as possible, giving his height, approximate weight, complexion, color of eyes, and any visible marks or scars and their location, and attest the same. [L. 1899, p. 124, § 7.]

§ 2867. Precinct Registers—What to Contain.

The clerk shall then enter in the separate precinct register of the particular precinct in which the elector resides everything entered by him in the general register. He shall arrange the names alphabetically, according to surname, in the separate precinct register, but the same number given the elector in the general register shall be given him in the separate precinct register. The clerk or deputy shall then require the elector to sign his name, and, as in the general register, he shall attest the registration. The separate election precinct registers shall contain all the information concerning the elector contained in the general or county register, including the actual signature of the elector, if able to sign, and the clerk's, or his deputy's, signature attesting such registration. [L. 1899, p. 125, § 8.]

§ 2868. Registration Before a Notary.

Every elector may be registered by personally appearing at the clerk's office and complying with the provisions of sections 2866 and 2867; but, if said elector is unable for any reason to conveniently register as aforesaid, he may register, without charge, before a notary public or a justice of the peace in the county in which he resides by using one of the blanks designated as blank "A," in section 2862, and filling out the blank in such a way as to afford all the information which he ought otherwise to give to the clerk under section 2866, and in addition thereto signing the same three times in the presence of two witnesses, freeholders of the county, who shall sign their names upon the same blank, and by the elector and witnesses

making oath thereto, as specified in said blank "A," which shall be duly certified by the notary public or justice of the peace and forthwith filed with the county clerk of the county in which the elector resides. The county clerk shall supply such registration officers, upon request, with a sufficient number of said blanks "A" and "B" free of charge. Each justice of the peace or notary public who so registers electors shall at the time he registers them enter the names, arranged alphabetically, according to surname, and the date of registration and the precinct, in a record book kept by him for that purpose. He shall not charge the elector anything, but he shall be entitled to receive from the county the sum of ten cents for each elector so registered by him, whose affidavit has been duly filed with the county clerk, and who has voted in the precinct where he registered at the next ensuing election. After each general election, the county commissioners shall audit such bills and order payment to be made in accordance herewith. [L. 1899, p. 125, § 9.]

§ 2869. Absent Elector May Be Registered by the Clerk.

Upon receipt of said written application or affidavit of an elector for registration, if it is in due form and duly certified, the clerk shall forthwith register the elector in the proper precinct in the general register, and also in the separate precinct register, in the same manner as if the elector had personally appeared in the clerk's office. The clerk shall cut out two of the signatures of the elector in said written application and paste them in the registers where the elector would have signed if he had applied in person, and file and preserve the written application in a paged file, noting upon the proper line in each register book the page in said file where said written application is filed. The clerk or deputy acting shall attest each such registration entered by him. [L. 1899, p. 126, § 10.]

§ 2870. Manner of Proceeding on Change of Residence.

Every elector, upon changing his residence after registering, may, within the time for registering, cause his former registration to be canceled, by a request in writing to the clerk where he is registered, imparting the information called for in blank "B," in section 2862, signing his name to it in the presence of two freeholders, who will sign their names, stating their places of residence; and by the said elector and witnesses swearing to the truthfulness of the statement before some one authorized to administer oaths, and by filing the same duly certified with the clerk where he was registered. The clerk shall compare the signature of the elector with his signatures upon

the registers, and if satisfied of the genuineness of the same he shall file his communication, and page the same, and then in each of the registers in red ink draw a line through the elector's name and write "canceled," and the number of the page where the blank is filed, and attest the cancellation by signing his own name. [L. 1899, p. 126, § 11.]

§ 2871. Residence and Qualification of Elector.

No person shall register who is not a qualified elector of the precinct in which he registers and who is not a resident thereof, or register in a name other than his true name; and no elector shall register a second time in the same precinct, or register in any other precinct until his first registration has been canceled, as provided in section 2870. [L. 1899, p. 127, § 12.]

§ 2872. Registers Closed—When.

The county clerk shall close all books of registration for the period of fourteen days at 5 o'clock P. M. on the fifty-fifth day before the regular general election in 1906 and biennially thereafter, by writing the words "Closed for fourteen days," in red ink on the line next below the last elector registered in each precinct of the general register. He shall then immediately in the indexed pages in the general register, opposite the name of each precinct, in writing, certify the number of electors registered in each precinct for each party subject to the provisions of the primary nominating elections law, and sign his name and title and affix the seal of the county thereto; and he shall immediately send to the Secretary of State, by telegraph if necessary, a certified copy of the numbers and totals for each party for his county; he shall likewise close the books of the precinct registers, and certify in each of the precinct registers the total number of electors registered in each precinct for each of the parties subject to the primary nominating elections law, and not canceled, and sign the same with his official title and affix the seal of the county thereto. All of said registers shall be reopened by the clerk on the fortieth day before the ensuing general election in June, 1906, and biennially thereafter, and remain open until the fifteenth day of May, 1906, and biennially thereafter, when they shall be finally closed for the ensuing election in the manner above provided. [L. 1905, p. 38, § 41.]

§ 2873. Registers are Public Records.

The said registers shall all be public records. The general register of the county shall be kept in the office of the county clerk, as other

public records are kept. Every citizen shall be allowed to examine the county general register and each of the precinct registers while they are in the custody of the county clerk, and make copies or extracts therefrom without charge to him. The several precinct registers shall be sent to their respective precincts, together with a suitable supply of the said registration blank "A," as prescribed by section 2862, all sealed, the same as other stationery and supplies are now forwarded to the judges of each precinct. [L. 1899, p. 127, § 14.]

§ 2874. Registered Elector May be Challenged.

Upon the day of election the judges of election, as soon as an elector applying to vote has given his name and residence to the election clerks, shall ask the elector if he is registered, and also examine the register. Notwithstanding the elector is registered, his right to vote may be challenged and tried at any time before his ballot is actually deposited in the ballot box. If he appears to be registered and is challenged, he shall be required to take and subscribe to the oath prescribed in blank "A," by section 2862, and in trying the challenge the judges shall compare his signature with that in the register and consider the same in deciding the challenge, and, after noting thereon their decision, shall file the same, no matter how the challenge may be determined. The judges, in their discretion, may require such elector to produce before them as many freeholders of the county as they may deem necessary, not exceeding six freeholders, and have them take and subscribe to the second oath as specified in said blank "A" of section 2862, using the same blank signed by the elector. [L. 1899, p. 127, § 15.]

§ 2875. Elector Considered Challenged When not Registered.

If it appears the elector is not registered in the precinct in which he applies to vote, the elector in every case, as of course, shall be considered challenged, and shall be required to subscribe and swear or affirm to the blank "A," prescribed by section 2862, filled out according to the facts, and in addition thereto he shall be required to procure six freeholders of the county to take and subscribe to the second oath as specified in said blank "A" of section 2862, and the same shall be considered by the judges and forthwith decided; and after noting thereon with ink whether the elector is allowed to vote or not, and if allowed to vote, the poll book number of the elector, they shall file the same. Unless the elector in every such case so establishes his right to vote in the precinct, and to the satisfaction of the judges, his vote shall not be received. In carrying out the

provisions of this chapter the judges of election, or either of them, are hereby authorized to administer and certify oaths, and to issue subpoenas to require the attendance of witnesses before them; *provided*, that in carrying out the provisions of this section in cities having a population of five thousand or more, as shown by the last preceding Federal census, the elector offering to vote, and all the freeholders subscribing to the affidavits herein required, shall take such oath before, and the same shall be administered only by the judges of election, or either of them, in the precinct and at the time the elector offers to vote, and such affidavits shall not be received if taken or made at any other time or place or before any other officer than one of said judges of election. [L. 1905, p. 259.]

§ 2876. Precinct Registers and Affidavits Included With Returns.

The precinct registers, and all affidavits filed, shall be returned along with the other election returns, sealed, and marked on the cover with the contents and the name of the precinct, to the county clerk of the county. [L. 1899, p. 128, § 17.]

§ 2877. Penalty for Violation of Act by Officers.

Any county clerk or clerk of the county court of any county, or any deputy of either of such officers, or any judge or clerk of election, or any justice of the peace or notary public, who shall wilfully disregard any of the provisions of this chapter, or who shall wilfully fail to perform or enforce any of the provisions of this chapter, or any person who shall wilfully or fraudulently register more than once, or register under any but his true name, or attempt to vote by personating another who is registered, contrary to the provisions of this chapter, or knowingly registers in any precinct where he is not a resident at the time of registering, upon conviction shall be punished by imprisonment in the penitentiary not less than one year nor more than three years, or by fine not less than \$100 nor more than \$2,000, or both such fine and imprisonment. Any person who shall falsely swear to any affidavit required by this chapter shall be deemed guilty of perjury, and upon conviction thereof shall be punished accordingly. [L. 1899, p. 128, § 18.]

§ 2878. Electors Must Personally Appear to Register, When.

All electors residing in the town or incorporated city which is the county seat, and where the county clerk or the clerk of the county court has his office, shall personally appear in the clerk's office and comply with the provisions of this chapter, in order to register. The board of county commissioners shall furnish the county clerk or

clerk of the county court all necessary assistance to enable him to carry out the provisions of this chapter. [L. 1899, p. 129, § 19.]

§ 2879. Duty to Challenge Voter, When.

It shall be the duty of each clerk or elector present to challenge any person offering to register who he shall know or suspect not to be qualified as an elector. If the person so challenged shall refuse to answer fully any questions touching his qualifications as an elector which shall be put to him by the registering officer, the registering officer shall refuse to register him. The qualifications of the applicant as an elector shall be determined in the first instance by the registering officer from the evidence produced before him, and if he finds the applicant disqualified to vote at the next election he shall reject the application, but if he finds him qualified he shall register him. If rejected, the name and place of alleged residence of each applicant for registration, and the date when rejected, shall be entered in a separate list for each precinct, kept by the registering officer. [L. 1899, p. 129, § 20.]

DIRECT PRIMARY NOMINATING ELECTIONS LAW.

Laws, 1905, pp. 7-40.

AN ACT

To propose by initiative petition a law declaring certain rights of political parties and voluntary political organizations, and of the members and candidates thereof; declaring the purposes of this law and prescribing rules for the construction of its provisions; defining a political party subject to the provisions of this law; providing for holding primary nominating elections preceding any election in this State (except special elections to fill vacancies, presidential elections, municipal elections in towns or cities having a population of less than two thousand inhabitants, and school elections) for the purpose of nominating all the candidates by all political parties subject to this law for all public offices to be filled at the ensuing elections, and for a senator in Congress; fixing the times for holding and regulating the manner of conducting such primary nominating elections; prescribing the manner of choosing candidates for nomination by the several political parties subject to the provisions of this law, and for making nominations at said primary nominating elections of the candidates of said political parties for election to public office at the ensuing election, and forbidding the nomination of candidates for public office by such political parties in any other manner; providing for printing and distributing ballots at such primary nominating election by public officers at public expense; prescribing the qualifications of petitioners, electors, and of candidates for nomination at such primary nominating elections; prescribing forms and procedure at such

primary nominating elections, and in proceedings relating thereto and statements to be made by candidates for nomination thereat; prescribing the duties of public officers in relation to and at such primary nominating elections; providing for the nomination by political parties subject to this law of their candidates for election as delegates to any constitutional conventions that may be called in this State; providing for the election by the several political parties subject to this law of their central committeemen, and defining their duties and powers as such committeemen; providing for the prevention and correction, under certain conditions, of errors, wrongs, and violations of the provisions of this law, and remedies therefor; providing for the prevention of frauds and the punishment of crimes and misdemeanors committed at such primary nominating elections, or in the proceedings relating thereto; providing penalties and punishment for the violation of any of the provisions of this law; providing for contesting nominations made at such primary nominating elections; applying to said primary nominating elections so far as the same are not in conflict with the provisions of this law, and as the same may be modified by the provisions of this law, the following sections of the General Laws of Oregon as the same are numbered in Bellinger and Cotton's Annotated Codes and Statutes of Oregon, to wit: Sections 1900, 1901, 1902, 1903, 1904, 1905, 1906, 1907, 1908, 1909, 1910, 1911, 1912, 1975, 2764, 2766, 2767, 2768, 2769, 2771, 2772, 2773, 2774, 2775, 2776, 2777, 2778, 2779, 2780, 2781, 2782, 2783, 2784, 2785, 2786, 2787, 2788, 2789, 2790, 2801, 2802, 2803, 2804, 2805, 2806, 2807, 2808, 2811, 2812, 2813, 2814, 2815, 2816, 2817, 2819, 2820, 2821, 2822, 2823, 2824, 2825, 2826, 2827, 2828, 2829, 2830, 2831, 2837, 2841, 2843, 2861, 2862, 2863, 2864, 2866, 2867, 2868, 2869, 2870, 2871, 2873, 2874, 2875, 2876, 2877, 2878, and 2879; amending sections 2865 and 2872 of Bellinger and Cotton's Annotated Codes and Statutes of Oregon; repealing the following sections of the General Laws of Oregon as the same are numbered in Bellinger and Cotton's Annotated Codes and Statutes of Oregon, to wit: Sections 2880, 2881, 2882, 2883, 2884, 2885, 2886, 2887, 2888, 2889, 2891, 2892, 2893, 2894, 2895, 2896, 2897, 2898, 2899, 2900, 2901, 2902, 2903, 2904, 2905, 2906, 2907, 2908, 2909, 2910, 2913, 2914, 2915, 2916, 2917, 2918, 2919, 2920, and section 2890 of said Bellinger and Cotton's Annotated Codes and Statutes, as amended by an act entitled "An act to amend section 2890, title XXVIII, chapter X of Bellinger and Cotton's Annotated Codes and Statutes of Oregon, relating to hours of election," approved February 24, 1903, and published on page 213 of the General Laws of Oregon of the legislative assembly of 1903; repealing all other acts and parts of acts in conflict with this law, or any part thereof, so far as the same relate to primary elections, primary nominating elections, or the procedure for any such elections under this law.

PREAMBLE.

Under our form of government, political parties are useful and necessary at the present time. It is necessary for the public welfare and safety that every practical guaranty shall be provided by law to assure the people generally, as well as the members of the several parties, that political parties shall be fairly, freely, and honestly conducted, in appearance as well as in fact. The method of naming candidates for elective public offices by political parties and voluntary political organizations is the best plan yet found for placing before the people the names of qualified and worthy citizens from whom the

electors may choose the officers of our government. The government of our State by its electors and the government of a political party by its members are rightfully based on the same general principles. Every political party and every volunteer political organization has the same right to be protected from the interference of persons who are not identified with it as its known and publicly avowed members, that the government of the State has to protect itself from the interference of persons who are not known and registered as its electors. It is as great a wrong to the people, as well as to the members of a political party, for one who is not known to be one of its members to vote or take any part at any election or other proceedings of such political party, as it is for one who is not a qualified and registered elector to vote at any State election or take any part in the business of the State. Every political party and voluntary political organization is rightfully entitled to the sole and exclusive use of every word of its official name. The people of the State and the members of every political party and voluntary political organization are rightfully entitled to know that every person who offers to take any part in the affairs or business of any political party or voluntary political organization in the State is in good faith a member of such party. The reason for the law which requires a secret ballot when all the electors choose their officers, equally requires a secret ballot when the members of a party choose their candidates for public office. It is as necessary for the preservation of the public welfare and safety that there shall be a free and fair vote and an honest count, as well as a secret ballot at primary elections, as it is that there shall be a free and fair vote and an honest count in addition to the secret ballot at all elections of public officers. All qualified electors who wish to serve the people in an elective public office are rightfully entitled to equal opportunities under the law. The purpose of this law is better to secure and to preserve the rights of political parties and voluntary political organizations, and their members and candidates, and especially of the rights above stated.

Be it enacted by the People of the State of Oregon:

§ 1. Construction of Law.

The provisions of this law shall at all times be construed in such manner as shall make it operate as nearly as possible in accordance with the foregoing statement of the theory on which it is based. Whenever the provisions of this law in operation prove to be of doubtful or uncertain meaning, or not sufficiently explicit in directions and details, the general laws of Oregon, and especially the elec-

tion and registration laws, and the customs, practice, usage, and forms thereunder, in the same circumstances or under like conditions, shall be followed in the construction and operation of this law, to the end that the protection of the spirit and intention of said laws shall be extended so far as possible to all primary elections, and especially to all primary nominating elections provided for by this law. If this proposed law shall be approved and enacted by the people of Oregon, the title of this bill shall stand as the title of the law.

§ 2. Time for Holding Primary Elections.

On the forty-fifth day preceding any election (except special elections to fill vacancies, presidential elections, municipal elections in towns and cities having a population of less than two thousand, and school elections) at which public officers in this State and in any district or county, and in any city having a population of two thousand or more at which public officers are to be elected, except as provided in section 6 of this law as to time in certain cities and towns, a primary nominating election shall be held in accordance with this law in the several election precincts comprised within the territory for which such officers are to be elected at the ensuing election, which shall be known as the primary nominating election, for the purpose of choosing candidates by the political parties, subject to the provisions of this law, for senator in Congress, and all other elective state, district, county, precinct, city, ward, and all other officers, and delegates to any constitutional convention or conventions that may hereafter be called, who are to be chosen at the ensuing election wholly by electors within this State, or any subdivision of this State, and also for choosing and electing the county central committeemen by the several parties subject to the provisions of this law.

§ 3. Election Precincts and Polling Places.

The election precincts provided by section 2762, and the judges and clerks and the polling places provided by section 2763, Bellinger and Cotton's Annotated Codes and Statutes of Oregon, shall be the same for the primary nominating elections provided for in this law, and it shall be the duty of the judges and clerks so provided for to act as such at all primary nominating elections herein provided for, except as otherwise provided by section 6 of this law. In all election precincts in which second boards of judges and clerks have been or may be appointed, as required by section 2764 of Bellinger and Cotton's Annotated Codes and Statutes of Oregon, and in which an aggregate of more than one hundred members of all or any of the

political parties subject to the provisions of this law are registered as such before the day of the primary nominating election, the said second board of judges and clerks shall meet at 7 o'clock P. M. at their respective polling places, and thereafter the boards of judges and clerks shall proceed at the primary nominating election as required by said section 2764 at a general election.

§ 4. Duty of County Clerk—Notice of Primary Elections.

It shall be the duty of the county clerk, thirty days before any primary nominating election, to prepare printed notices of such election, and mail two of said notices to each judge and clerk of election in each precinct; and it shall be the duty of the several judges and clerks immediately to post said notice in public places in their respective precincts. Said notices shall be substantially in the following form:

PRIMARY NOMINATING ELECTION NOTICE.

Notice is hereby given that on, the day of, 19.., at the, in the precinct of, in the county of, Oregon, a primary nominating election will be held at which the [insert names of political parties subject to this law] will choose their candidates for state, district, county, precinct, and other offices, namely [here name the offices to be filled, including a senator in Congress when the next legislative assembly is to elect a senator, delegates to any constitutional convention then called, and candidates for county central committeemen to be elected]; which election will be held at 12 o'clock, noon, and will continue until 7 o'clock in the afternoon of said day.

Dated this day of, 19...

_____, County Clerk.

§ 5. Opening and Closing Polls—Poll Books.

The provisions of sections 2764, 2766, 2767, 2768, 2769, 2771, 2772, 2773, 2774, 2775, 2776, 2777, 2778, 2779, 2780, 2781, 2782, 2783, 2784, 2785, 2786, 2787, 2788, 2789, 2790, Bellinger and Coitton's Annotated Codes and Statutes of Oregon, except as to the time of opening the polls of said primary nominating election, which shall be at 12 o'clock, noon, shall apply to and are hereby made applicable to primary nominating elections under the provisions of this law, except in so far as they may be modified herein or be in conflict herewith, and each poll book at the primary nominating election shall have a column headed with the name of each party so making its nominations, for writing in the voter's party number as he receives his ballot, in addition to his general number, and provided that for the purposes of the primary nominating elections, there shall be added to the form of oath prescribed by said section 2774, the words, "and that you are in good faith a member of the political party with which you are registered."

§ 6. Application of Law to Cities and Towns.

The nomination of candidates for municipal offices by the political parties subject to the provisions of this law shall be governed by this law in all incorporated towns and cities of this State having a population of two thousand and upward, as shown by the last preceding national or state census. All petitions by the members of such political parties for placing the names of candidates for nomination for such municipal offices on the primary nominating ballots of the several political parties shall be filed with the city clerk, recorder, or auditor, as the case may be, of said several towns and cities, and it shall be the duty of such officers to prepare and issue notices of election for such primary nominating elections in like manner as the several county clerks perform similar duties for nominations by such political parties for county offices at primary nominating elections; and in such towns or cities holding their municipal elections at the same time as any general election, it shall be the duty of said city clerk, recorder, or auditor, as the case may be, on the fifteenth day before the time of holding such primary nominating election, to prepare and certify and deliver to the county clerk of the county in which said city or town is situated, a list of the candidates for nomination who have filed valid petitions for nomination at such primary nominating election, and all the information in such petitions concerning the said candidates for nomination for municipal offices; whereupon it shall be the duty of said county clerk to arrange in the manner provided by this law the names and information concerning all the candidates for such nomination for city offices contained in the certificate of said city clerk, recorder, or auditor; to certify and post the same in his office, and to cause the same to be printed upon the sample ballots and upon the official ballots of the several political parties to be used at the several polling places within the limits of every such city or town, together with the names of the candidates for state, county, and district offices at such primary nominating election, as required by this law, and conform to the general provisions of this law as nearly as may be; and in cities and towns containing a population of two thousand and upward not holding their municipal elections at the same time the general elections are held, the duties imposed by this law on the county clerk at primary nominating elections are hereby, as to all said last described towns and cities, designated to be the duties of the city clerk, recorder, or auditor, as the case may be, of said towns and cities as to primary nominating elections of the political parties subject to the provisions of this law; *provided*, that in such last named cities and towns the

primary nominating election shall be held on the thirtieth day preceding their municipal elections. Under the provisions of this law the lawfully constituted legislative and executive authorities of cities and towns within the provisions of this section not holding their municipal elections at the same time the general elections are held, shall have such power and authority over the establishment of municipal voting precincts and wards, municipal boards of judges and clerks of election and other officers of their said municipal elections, and other matters pertaining to municipal primary nominating elections required for such cities and towns by this law, that such legislative and executive authorities have over the same matters at their municipal elections for choosing the public officers of said cities and towns; *and provided further*, that nothing in this act contained shall be construed as altering or repealing any provision of the charter of any such last described city or town providing for the appointment of judges and clerks of election by the council or other lawfully constituted authority of such city or town, or as altering or repealing any of the provisions of title XXVII of Bellinger and Cotton's Annotated Codes and Statutes of Oregon providing for the appointment of judges and clerks of election in towns and cities organized under the provisions of said title XXVII.

§ 7. Counting of Ballots.

Immediately after the closing of the polls at a primary nominating election the names of the electors of each political party who voted at said primary nominating election shall be counted, and the number so voting for each political party written and certified in each of the poll books at the end of the list, and the same shall be immediately signed by the chairman and each of the judges and clerks in the manner provided by section 2782 of Bellinger and Cotton's Annotated Codes and Statutes of Oregon for a general election, and immediately thereafter the clerks and judges of election shall open the ballot boxes at each polling place and proceed to take therefrom the ballots. Said officers shall count the number of ballots cast by each political party, at the same time bunching the tickets cast for each political party together in separate piles, and shall then fasten each pile separately by means of a brass clip, or may use any means which shall effectually fasten each pile together at the top of each ticket. As soon as the clerks and judges have sorted and fastened together the ballots separately for each political party, then they shall take the tally sheets provided by the county clerk and shall count all the ballots for each political party separately until

the count is completed, and shall certify to the number of votes for each candidate for nomination for each office upon the ticket of each party. They shall then place the counted ballots in the box. After all have been counted and certified to by the clerks and judges they shall seal the returns for each of said political parties in separate envelopes, to be returned to the county clerk.

§ 8. Construction of Law.

In construing the provisions of this law, and of all sections of Bellinger and Cotton's Annotated Codes and Statutes of Oregon hereby made applicable to primary nominating elections they shall, as to the duties of officers, forms, blanks, ballots, elections, and all other matters so far as may be, be understood and interpreted as though said primary nominating election is a separate election for each political party making its nominations hereunder, and to be conducted as to that party as nearly as practicable the same as the regular biennial general elections in June are conducted for all the electors, except in so far as the manner of proceeding at said June election may be modified or changed by this law for the purpose of said primary nominating election. The provisions of this law do not modify or in any manner control the proceedings at the regular biennial general elections, except in so far as they be herein expressly and directly amended.

§ 9. Form of Tally Sheets—Canvass of Votes.

Tally sheets for each political party having candidates to be voted for at said primary nominating election shall be furnished for each voting precinct by the county clerk, at the same time and in the same manner that the ballots are furnished, and shall be substantially as follows:

“Tally sheet of the primary nominating election for [name of political party] held at precinct, in the county of on the day of, 19...”

The names of the candidates shall be placed on the tally sheets and numbered in the order in which they appear on the official and sample ballots, and in each case shall have the proper political party designated at the head thereof. The following shall be the form of the tally sheets kept by the judges and clerks of the primary nominating election under this law, containing the number and name of each person voted for, the particular office for nomination to which each person was voted for, the total number of votes cast for each candidate for nomination. The tally or count as it is kept by each of

the clerks shall be audibly announced as it proceeds, and shall be kept in the manner and form as follows:

No.	Name of candidate.	Office.	Total vote received.	No.	Tally 5.	No.	Tally 10.	No.	Tally 15.
12				12		12		12	
13				13		13		13	
14				14		14		14	

The columns for the numbers 12, 13, 14, etc., shall not be over three eighths of an inch wide. The columns for the tallies shall be three eighths of an inch wide, the lines shall be three eighths of an inch apart; every ten lines the captions of the columns shall be re-printed between double-ruled lines in bold-faced small pica, and all the figures shall be printed in bold-faced small pica. The tally sheets shall conclude with the following form of certificate:

We hereby certify that at the above primary nominating election and polling place each of the foregoing named persons received the number of votes set opposite his name, as above set forth, for the nomination for the office specified.

_____, Clerk.
 (Who kept this sheet.)
 _____, Chairman.
 _____, Judge.
 _____, Judge.
 _____, Clerk.
 _____, Clerk.
 (Who kept the other sheet.)

During the counting of the ballots each clerk shall, with pen and ink, keep tally upon one of the above tally sheets, of each political party, and shall total the number of tallies and write the total in ink immediately to the right of the last tallies for each candidate, and also in the columns headed "total vote," and shall prepare the certificate thereto above indicated; and immediately upon the completion of the count, all the clerks shall sign the tally sheets, and each of them shall certify which sheets were kept by him; and the chairman and the judges, being satisfied of the correctness of the same, shall then sign all of said tally sheets. The clerks shall then prepare a statement of that portion of the tally sheets showing the number and name and political party of each candidate for nomination and the office and total votes received by each in the precinct, and shall prepare the certificate thereto, which statement shall be signed

by the judges and clerks to [who] complete the count, and shall be immediately posted in a conspicuous place on the outside of said polls, there to remain for ten days. When two boards of judges and clerks participate in the counting of the ballots, each board shall keep and certify its own separate tally sheets. When one board is relieved by the other board, the retiring board shall, before adjourning, total up the tallies representing the ballots so far counted for each candidate for nomination, and a memorandum of the total vote received by each candidate shall be noted on the tally sheet in ink, immediately above the last tallies for each candidate, all done in ink, but in such manner as not to render the tally sheet unfit for continuing the count upon the reconvening of the board. During the recess the chairman and second judge of the board shall each have the custody of one set of the tally sheets, and the third set of sheets shall be deposited in the ballot box, all the third set of sheets being kept sealed under the official seal of the board until the board reconvenes. When it is seen which board will have to complete the count, the outgoing board shall complete the additions and certifications upon its tally sheets, and deliver two sets of its tally sheets to the chairman of the board which is to complete the count of the ballot. The third set of tally sheets shall be sealed under the official seal of the board, indorsed on the outside to identify it, and retained by the chairman of the board which made and certified it, to be kept by him safely, subject to the control of the proper court.

§ 10. Poll Books and Tally Sheets to be Sealed and Returned.

Immediately after canvassing the votes in the manner aforesaid, the judges and clerks to complete the count, before they separate or adjourn shall inclose the poll books in separate covers and securely seal the same. They shall also inclose the tally sheets in separate envelopes and seal the same securely. They shall also envelope all the ballots fastened together, as aforesaid, and seal the same securely; and they shall in writing, with pen and ink, specify the contents, and address each of said packages upon the outside thereof to the county clerk of the county in which the election precinct is situated. When two boards participate in counting the ballots each board, before taking its recess, shall plainly mark and identify the last ballot which it has counted and seal the same under the official seal of the board upon the back of the said uppermost ballot. They shall then string the loose ends of the counted ballots and tie the same tightly and seal the knot and string over the loose end of the ballots with their official seal in such manner that it will show if

broken, and leave the same with the ballot boxes until the count is completed. These sealed packages of counted ballots shall be marked on the outside, showing what numbers are contained therein, but, once sealed, they are not to be opened by any one until so ordered by the proper court. When the count is completed, the ballots counted and sealed, and enveloped and marked for identification as aforesaid, shall be packed in the two ballot boxes, and nothing else shall be put into the boxes. The boxes shall then be locked, and the official seal of the board which finally completed the count shall be pasted over the keyhole and over the rim of the lid of the box, so that the box can not be opened without breaking the seal. Thereafter neither the county clerk nor the canvassers making abstracts of the votes shall break the said seals upon the ballot boxes, nor shall any one break the seals on the boxes or the ballots, except upon the order of the proper court in case of contest, or upon the order of the county court when the boxes are needed for the ensuing election.

§ 11. Political Party Defined.

A political party, within the meaning of this act, is an affiliation of electors representing a political party or organization, which, at the next general election preceding, polled for its candidate for representative in Congress at least twenty-five per cent. of the entire vote cast for that office in the State. Every such political party shall nominate all its candidates for public office under the provisions of this law, and not in any other manner; and it shall not be allowed to nominate any candidate in the manner provided by section 2791 of Bellinger and Cotton's Annotated Codes and Statutes of Oregon. Every political party, and its regularly nominated candidates, members, and officers, shall have the sole and exclusive right to the use of the party name and the whole thereof, and no candidate for office shall be permitted to use any word of the name of any other political party or organization than of that by which he is nominated. No independent or nonpartisan candidate shall be permitted to use any word of the name of any existing political party or organization in his candidacy. The names of candidates for public office nominated under the provisions of this law shall be printed on the official ballots for the ensuing election as the only candidates of the respective political parties for such public office in like manner as the names of the candidates nominated by other methods are required to be printed on such official ballots; and the provisions of sections 2805 and 2806 of Bellinger and Cotton's Annotated Codes and Statutes of Oregon shall apply to and are hereby made applica-

ble to nominations for public office made under this law, so far as the same are not in conflict with the provisions of this law.

§ 12. Petitions for Nomination to be Filed.

Before or at the time of beginning to circulate any petition for nomination to any office under this law, the person who is to be a candidate for such a nomination shall send by registered mail, or otherwise, to the Secretary of State, or the county clerk or city clerk, recorder, or auditor, as the case may be, a copy of his petition for nomination, signed by himself; and such copy shall be filed and shall be conclusive evidence for the purposes of this law that said elector has been a candidate for nomination by his party. All nominating petitions and notices pertaining to state or district offices to be voted for in more than one county, and for judges of the circuit court and district attorneys, shall be filed in the office of the Secretary of State; for county offices and district offices to be voted for in one county only, shall be filed with the county clerk; and for all city offices, in the office of the city clerk, recorder, or auditor, as the case may be.

§ 13. Form of Petition for Nomination.

Any qualified elector who has filed his petition, and is registered as herein required as a member of a political party subject to the provisions of this act, shall have his name printed on the official nominating ballot of his party as a candidate for nomination for any office at any primary nominating election held under the provisions of this act, if there shall be filed in his behalf a petition signed as herein required, and substantially in the following form:

To [address of the officer with whom the petition is to be filed], and to the members of the party and the electors of (state), (counties of, comprising the district), (county), (city), (as the case may be), in the State of Oregon—

I,, reside at, and my post office address is I am a duly registered member of the party. If I am nominated for the office of, at the primary nominating election to be held in the (State of Oregon), (district), (county), (city), the day of, 19.., I will accept the nomination and will not withdraw, and if I am elected I will qualify as such officer.

If I am nominated and elected I will, during my term of office, [here the candidate, in not exceeding one hundred words, may state any measures or principles he especially advocates, and the form in which he wishes it printed after his name on the nominating ballot, in not exceeding twelve words].

In case of an elector seeking nomination for the office of senator or representative in the legislative assembly, he may include one of

the following two statements in his petition; but if he does not do so, the Secretary of State or county clerk, as the case may be, shall not on that account refuse to file his petition:

STATEMENT NO. 1.

I further state to the people of Oregon, as well as to the people of my legislative district, that during my term of office I will always vote for that candidate for United States senator in Congress who has received the highest number of the people's votes for that position at the general election next preceding the election of a senator in Congress, without regard to my individual preference.

(Signature of the candidate for nomination.)

If the candidate shall be unwilling to sign the above statement, then he may sign the following statement as a part of his petition:

STATEMENT NO. 2.

During my term of office I shall consider the vote of the people for United States senator in Congress as nothing more than a recommendation, which I shall be at liberty to wholly disregard, if the reason for doing so seems to me to be sufficient.

(Signature of the candidate for nomination.)

Every such petition shall be signed as above by the elector seeking such nomination. There shall be a separate leaf or sheet signed as above on every such petition for each precinct in which it is circulated. After the above, and on a separate sheet or sheets, shall be the following petition:

To (Secretary of State for Oregon), or (to the county clerk for the county of Oregon), or (to city clerk of the city of), (as the case may be):

We, the undersigned registered members of the party and qualified electors and residents of precinct, in the county of State of Oregon, respectfully request that you will cause to be printed on the official nominating ballot for the party, at the aforesaid primary nominating election, the name of the above signed [name of applicant], as a candidate for nomination to the office of [title of office] by said party.

Name.	Postoffice address.	Street and number, if any	Precinct.
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Each and every leaf or sheet of said petition containing signatures shall be verified in substantially the following form by one or more of the signers of said petition:

STATE OF OREGON, }
 County of } ss.

I, , being first duly sworn, say: I am personally acquainted with all the persons who have signed this sheet of the foregoing petition, and I personally know that their signatures thereon are genuine; and I believe that their post office address and residence are correctly stated, and that they are qualified electors and registered members of the party.

 (Signature of affiant.)

Subscribed and sworn to before me this day of, 19...

 (Signature and title of officer before whom oath is made.)

§ 14. Percentage of Electors Required on Petition.

The vote cast by a political party in each voting precinct for representative in Congress at the last preceding general election shall be the basis on which the percentage for petitions shall be counted; *provided*, that if any political party cast twenty-five per cent of the total votes in the State for representative in Congress, although less than the required percentage in any one or more electoral districts, county, municipality, or precinct, it shall nevertheless be subject to the provisions of this law in making nominations in such electoral districts, county, municipality, and precinct. If the nomination is for a municipal office, or an office to be voted for in only one county, the necessary number of signers shall include electors residing in at least one fifth of the voting precincts of the county, municipality, or district; if it be a state or district office, and the district comprises more than one county, the necessary number of signers shall include electors residing in each of at least one eighth of the precincts in each of at least two counties in the district; if it be an office to be voted for in the State at large, the necessary number of signers shall include electors residing in each of at least one tenth of the precincts in each of at least seven counties of the State; if it be an office to be voted for in a congressional district, the necessary numbers of signers shall include electors residing in at least one tenth of the precincts in each of at least one fourth of the counties in such district. The number of signers required on every such petition shall be at least two per cent of the party vote in the electoral district as above stated; *provided*, that the whole number of signers required on a nominating petition under the provisions of this law for any office to be voted for in the State at large, or in a congressional district, shall not exceed one thousand, nor in any other case shall the whole number required exceed five hundred signers. All the leaves or

sheets making one petition shall be fastened together before they are forwarded to the proper officers for filing. There shall not be in any petition the name of more than one candidate for nomination. Any elector may sign more than one nominating petition required by this law for the same office. It shall be unlawful for any person to sign another person's name to any petition required by this law. It shall be unlawful for any person to sign any nominating petition required by this law unless he is a qualified elector and at the time of signing has registered for the ensuing election as a member of the political party represented by the petition. Any names or signatures placed on any petition in violation of the provisions of this law shall not be counted in computing the number of signers necessary to make the same a valid and effective petition.

§ 15. Qualifications of Petitioners.

No person who is not a qualified elector and a registered member of a party making its nominations under the provisions of this law shall be qualified to join in signing any petition for nomination, or to vote at said primary nominating election; and no person shall be qualified to sign any nominating petition of any other political party for the primary nominating election than that with which he is registered as a member. But this shall not be construed to prevent any registered member of any party from signing a petition for the nomination of any independent or nonpartisan candidate after the primary nominating election, nor shall it be construed to prevent any qualified elector from signing petitions for more than one candidate for the same office on one party ticket.

§ 16. Time for Filing Petitions for Nominations.

All petitions for nomination under this act for offices to be filled by the State at large, or by any district consisting of more than one county, and nominating petitions for judges of circuit courts and for district attorneys in districts consisting of a single county, shall be filed in the office of the Secretary of State not less than twenty days before the date of the primary nominating election; and for other offices to be voted for in only one county, or district or city, every such petition shall be filed with the county clerk or city clerk, recorder, or auditor, as the case may be, not less than fifteen days before the date of the primary nominating election.

§ 17. "Register of Candidates."

The county clerk, Secretary of State, and the city clerk, recorder, or auditor of towns and cities having two thousand inhabitants or

more, shall keep a book entitled "Register of Candidates for Nomination at the Primary Nominating Election," and he shall enter therein, on different pages of the book for the different political parties subject to the provisions of this law, the title of the office sought and the name and residence of each candidate for nomination at the primary nominating election; the name of his political party; the date of receiving the first copy of his petition signed by the candidate; the words he wishes printed after his name on the nominating ballot, if any; the date of receiving his petition; the number of signatures thereon, and the number of signatures required to make a valid and sufficient petition for nomination to said office by his political party, and such other information as may aid him in arranging his official ballot for said primary nominating election. Immediately after the canvass of votes at a primary nominating election is completed, the county clerk, Secretary of State, or city clerk, recorder, or auditor, as the case may be, shall enter in his book marked "Register of Nominations," provided by section 2799 of Bellinger and Cotton's Annotated Codes and Statutes of Oregon, the date of such entry, the name of each candidate nominated, the office for which he is nominated, and the name of the party making the nomination.

§ 18. Register of Candidates is Public Record—Disposition of Poll Books, Tally Sheets, Ballots, etc.

Such registers of candidates for nomination, and of nominations and petitions, letters and notices, and other writings required by law, as soon as filed, shall be public records, and shall be open to public inspection under proper regulations; and when a copy of any such writing is presented at the time the original is filed, or at any time thereafter, and a request is made to have such copy compared and certified, the officers with whom such writing was filed shall forthwith compare such copy with the original on file, and, if necessary, correct the copy and certify and deliver the copy to the person who presented it on payment of his lawful fees therefor. All such writings, poll books, tally sheets, ballots, and ballot stubs pertaining to primary nominating elections under the provisions of this act shall be preserved as other records are for two years after the election to which they pertain, at which time, unless otherwise ordered or restrained by some court, the county court shall destroy the ballots and ballot stubs by fire, without any one inspecting the same.

§ 19. Notice of Death or Withdrawal.

The provisions of sections 2801 and 2802 of Bellinger and Cotton's Annotated Codes and Statutes of Oregon shall apply to nomi-

nations, or petitions for nominations made under the provisions of this law, in case of the death of the candidate or his removal from the State or his county or electoral district before the date of the ensuing election, but in no other case. In case of any such vacancy by death or removal from the State, or from the county or electoral district, such vacancy may be filled by the committee which has been given power by the political party or this law to fill such vacancies substantially in the manner provided by sections 2803 and 2804 of Bellinger and Cotton's Annotated Codes and Statutes of Oregon.

§ 20. Arrangement and Notice of Nominations.

Not more than twenty days and not less than seventeen days before the day fixed by law for the primary nominating election the Secretary of State shall arrange, in the manner provided by this law, for the arrangement of the names and other information upon the ballots, all the names of and information concerning all the candidates for nomination contained in the valid petitions for nomination which have been filed with him in accordance with the provisions of this law; and he shall forthwith certify the same under the seal of the State, and file the same in his office, and make and transmit a duplicate thereof by registered letter to the county clerk of each county in the State, and he shall also post a duplicate thereof in a conspicuous place in his office, and keep the same posted until after said primary nominating election has taken place. In case of emergency the Secretary of State may transmit such duplicate by telegraph.

§ 21. Arrangement of Ballots and Notice.

Not more than fifteen days and not less than twelve days before the day fixed by law for the primary nominating election, the county clerk of each county, or the city clerk, recorder, or auditor of each city, as the case may be, subject to the provisions of this law, shall arrange in the manner provided by this law for the arrangement of the names and other information concerning all the candidates and parties named in the valid petitions for nomination which have been filed with him, and those which have been certified to him by the Secretary of State, in accordance with the provisions of this law; and he shall forthwith certify the same under the seal of the county court, or the official seal of his office, as the case may be, and file the same in his office, and make and post a duplicate thereof in a conspicuous place in his office, and keep the same posted until after the primary nominating election has taken place; and he shall forthwith proceed and cause to be printed, according to law, the colored sam-

ple ballots and the official voting ballots for each political party required by this law.

§ 22. Ballots Printed and Furnished by County Clerk.

The provisions of section 2807 of Bellinger and Cotton's Annotated Codes and Statutes of Oregon shall apply to and are hereby made applicable to primary nominating elections under this law. All the official ballots designed to be voted at primary nominating elections shall be printed: for the Republican party, in black ink upon a good quality of white paper; for the Democratic party, in black ink upon a good quality of blue paper; and for any third party, in black ink upon a good quality of yellow paper; otherwise, except for the party name, the ballots shall be alike for each political party and of the same size in the same county at the same election. Duplicate impressions of the same shall be printed upon cheaper colored paper, but not any of the colors above named, so as to be readily distinguished from official ballots designed to be voted; these colored ballots shall be used solely as sample ballots for the information and convenience of voters, and, if voted, shall not be counted.

§ 23. Official Ballot—Arrangement of Candidates' Names—Form of.

The ballot shall be styled "Official primary nominating election ballot of party"; shall state the number or name of the precinct and county they are intended for, and date when election is to be held; shall contain the names of all candidates for nomination for offices to be filled at that election, whose petitions have been duly made and filed as herein provided, and who have not died or removed from their electoral districts, and the names of candidates of the several parties in the several precincts for the members of their county central committees, and of delegates to be chosen to any constitutional convention that may be called, and shall contain no other names of persons. The name of each person, for whom as a candidate for nomination a valid petition has been duly filed, shall be printed on the ballot in but one place, but there shall be added opposite thereto the measures he especially advocates, expressed in not more than twelve words, as specified in the petition for nomination naming him for the office. The names of the candidates for nomination to each office shall be arranged under the designation of the office, in alphabetical order, according to surnames. There shall be left at the end of the list of candidates for nomination to each different office, a blank space in which the elector may write the name of any person not printed on the ballot for whom he desires

to vote as a nominee for such office. On the left margin of the ballots for each political party the name of the uppermost candidate for nomination as printed shall be numbered 12, and the next candidate 13, and the next 14, and so on consecutively to the end of the ballot. The blank lines shall not be numbered. Each ballot shall have along the top thereof a stub one and one half inches wide, perforated along the lower edge thereof; on the left half of the stub shall be printed the words, "Stub to be torn off by the chairman," on the right half, "Stub to be torn off by the first clerk," and colored sample ballots shall not be perforated. Immediately below the perforated line shall be printed, in capitals, these words, "Official primary nominating ballot for party for precinct, county, at the primary nominating election to be held on, the day of, 19..." Under this caption shall be printed, in bold-faced type, the words, "Mark a cross [X] between the number and the name of each candidate voted for." Below this shall be printed in the manner aforesaid (1) the candidates for nomination for senator and representative in Congress and for state offices; (2) for district and county offices; (3) for precinct offices; (4) for other offices. The ballot shall be printed so as to give each elector a clear opportunity to designate his choice for candidates for nomination by making with indelible pencil a cross (X) to the left of the name of the candidate he wishes to vote for nomination to each office; and on the ballot may be printed such words as will aid the elector to do this,—"vote for one," "vote for three," and the like. The ballot shall be of sufficient length and width to permit this to be properly done. The official ballot for each party shall be arranged and printed in substantially the following form, but it may be printed in two or more columns, and shall be ruled, lined, and spaced in the manner provided by section 2809 of Bellinger and Cotton's Annotated Codes and Statutes of Oregon for the official ballots at the regular general election:

STUB
TO BE TORN OFF BY THE CHAIRMAN.

STUB
TO BE TORN OFF BY THE FIRST CLERK.

OFFICIAL PRIMARY NOMINATING ELECTION BALLOT

FOR THE

PARTY FOR SOUTH PORTLAND PRECINCT,
MULTNOMAH COUNTY,

AT THE

PRIMARY NOMINATING ELECTION TO BE HELD ON _____,
THE _____ DAY OF APRIL, 19____.

Make a Cross [X] between the number and the name of each candidate voted for.

The Republican Candidates for Nomination for Senator and Representative in Congress, and for State Offices.

For United States Senator in Congress *Vote for ONE*

12 Thurlow B. Merton, of Multnomah County.

13 Walter B. Wilter, of Umatilla County.

For Representative in Congress *Vote for ONE*

14 Joseph Jennings, of Wasco County.

15 Jonathan Samms, of Gilliam County.

For Governor *Vote for ONE*

16 Samuel Johnson, of Marion County, favors franchise tax corporations.

17 John Samson, of Malheur County.

For Secretary of State *Vote for ONE*

18 W. B. Curran, of Clatsop County.

19 George Wilson, of Baker County.

For State Treasurer *Vote for ONE*

20 C. H. Chilton, of Grant County.

21 John P. Walker, of Columbia County.

For Supreme Judge *Vote for ONE*

22 Arthur C. Simms, of Crook County.

23 Orville Wilkins, of Wallowa County.

For Superintendent of Public Instruction *Vote for ONE*

24 George M. Josephson, of Wasco County.

25 Henry J. Summer, of Wheeler County.

For State Printer *Vote for ONE*

26 Ord C. Colunder, of Douglas County.

27 Samuel P. Kollen, of Washington County.

Republican Candidates for Nomination for District and County Offices.

<i>For Prosecuting Attorney</i>		<i>Vote for ONE</i>
28	William S. Stokes, of Multnomah County.	
29	Charles P. Swing, of Multnomah County.	
<i>For Judge of Circuit Court</i>		<i>Vote for ONE</i>
30	Amos Strong, of Multnomah County.	
31	Christian Thompson, of Multnomah County.	
<i>For Joint Senator, Clackamas and Multnomah Counties</i>		<i>Vote for ONE</i>
32	George J. McCall, of Clackamas County.	
33	William T. Merry, of Multnomah County.	
<i>For Joint Representatives, Multnomah and Clackamas Counties</i>		<i>Vote for ONE</i>
34	Frances A. Terrel, of Multnomah County.	
35	Frank Wilson, of Multnomah County.	
<i>For State Senator from Multnomah County</i>		<i>Vote for ONE</i>
36	Albert Wheatley.	
37	Samuel Wilton.	
<i>For Representatives from Multnomah County</i>		<i>Vote for TWELVE</i>
38	Wilbur Able, promises to vote for people's choice for United States senator.	
39	William A. Adams.	
40	Orton Anderson.	
41	Frank Alger, will not promise to vote for people's choice for United States senator.	
42	Elton Ankeny.	
43	Samson Ashley, favors state monopoly sale of liquors on South Carolina dispensary plan.	
44	Wilson Atterbury.	
45	Angus Bailey.	
46	Washington Baird.	
47	Fred K. Ball.	
48	James Barrow.	
49	Chris Barton.	
50	John P. Bascom.	
51	Franklin B. Bell.	
<i>For County Judge of Multnomah County</i>		<i>Vote for ONE</i>
52	Simeon A. Bennett.	
53	Edward S. Bonahan.	
<i>For Sheriff of Multnomah County</i>		<i>Vote for ONE</i>
54	Peter Booth.	
55	Ben F. Boutwell.	

For Clerk of Circuit Court of Multnomah County *Vote for ONE*

56 Orrin Buckner.

57 Warren Burleigh.

For Clerk of County Court of Multnomah County *Vote for ONE*

58 Henry Butcher.

59 Phil Bryne.

For Recorder of Conveyances for Multnomah County *Vote for ONE*

60 Francis P. Calhoun.

61 Hiram Cannot.

For County Treasurer of Multnomah County *Vote for ONE*

62 William E. Carroll.

63 Frank O. Carter.

For Assessor of Multnomah County *Vote for ONE*

64 Oliver O. Chadwick.

65 Walter S. Simpson.

For School Superintendent of Multnomah County *Vote for ONE*

66 Julius C. Coburn.

67 Darron O. Comstock.

For County Surveyor of Multnomah County *Vote for ONE*

68 Jerry O. Cook.

69 Lucius P. Copeman.

For Coroner of Multnomah County *Vote for ONE*

70 Ellerton C. Corfman.

71 Amos E. Cox.

For County Commissioner of Multnomah County *Vote for ONE*

72 Silas Crafter.

73 John Q. Croker.

Republican Candidates for Nomination for City and Precinct Offices.

For Mayor of Portland *Vote for ONE*

74 John Daley, of Tenth Ward.

75 Roderick Davis, of Sixth Ward.

For Municipal Judge of Portland *Vote for ONE*

76 Abraham Kinto, of Fourth Ward.

77 Harrison Knight, of Third Ward.

For City Attorney of Portland *Vote for ONE*

78 Edward H. Kohler, of First Ward.

79 Sydney Phillips, of Eighth Ward.

<i>For City Auditor of Portland</i>		<i>Vote for ONE</i>
80	Anton Kuhn, of Fifth Ward.	
81	Charles A. Layne, of Eleventh Ward.	
<i>For City Treasurer of Portland</i>		<i>Vote for ONE</i>
82	Wade O. Latimer, of Ninth Ward.	
83	Willson F. Learned, of Seventh Ward.	
<i>For City Engineer of Portland</i>		<i>Vote for ONE</i>
84	Worden Q. Lockwood, of Fourth Ward.	
85	Otto R. Shields, of First Ward.	
<i>For Councilman, Seventh Ward</i>		<i>Vote for ONE</i>
86	Alderson Mason, of Seventh Ward.	
87	James Mayer, of Seventh Ward.	
<i>For Justice of the Peace</i>		<i>Vote for ONE</i>
88	Albert O. Marsh, of Multnomah County.	
89	Wills McLean, of Multnomah County.	
<i>For Constable</i>		<i>Vote for ONE</i>
90	Horace Mercher, of Multnomah County.	
91	Frederick H. Miller, of Multnomah County.	
<i>Republican candidates, for election, for County Central Committeeman from South Portland Precinct</i>		<i>Vote for ONE</i>
92	Franklin P. Smith, of Multnomah County.	
93	Wash C. Squires, of Multnomah County.	
94	Marion O. Swingerton, of Multnomah County.	

§ 24. Official Ballots and Sample Ballots—Number of.

There shall be provided and furnished at each primary nominating election for each election precinct for each voter duly registered therein as a member of a party subject to the provisions of this law, when the registration books are first closed as required by section 39 of this act, at least two official ballots intended to be voted, and a like number of the colored sample ballots. The sample ballots shall be duplicate impressions of the official ballots to be voted, but in no case shall they be white, or colored any shade of blue or yellow, nor shall the sample ballots have perforated stubs, nor shall they have the same margin, either at the top or sides or bottom, as the official voting ballots have, or nearer thereto than twelve points. These colored sample ballots shall be furnished as soon as printed, at any time before the primary nominating election by the respective county or city clerks, in reasonable quantities, to all electors applying for the same; and on the day of said election, under the direction

and control of the judges at each polling place, said colored sample ballots shall be given in proper quantities to all electors applying for them.

§ 25. Vacancy after Printing the Ballots—Cancellation of Names on Printed Ballot—Ballot Boxes, Election Supplies and Delivery by Sheriff—Polling Places—Judges and Clerks.

The provisions of sections 2811, 2812, 2813, 2814, 2815, 2816, and 2817 of Bellinger and Cotton's Annotated Codes and Statutes of Oregon shall apply to and are hereby made applicable to primary nominating elections under this law, as far as the same are not in conflict with this law.

§ 26. Manner of Voting.

Any person desiring to vote shall give his name and his residence and political party to the first of the election clerks, which clerk shall not be of the same political party as the chairman, who shall thereupon announce the name and residence and party distinctly, and write in the poll book kept by him the name and residence and party of the elector and the word "State," or "State and District," if he is qualified to vote for such officers only, and also write the name and residence of the elector, and, if proper, the word "State," or "State and District," with pen and ink upon the back of one of the stubs upon one of the voter's political party official ballots provided under this act; the clerk shall then with pen and ink write the number of the elector upon the back of each of the two stubs upon said ballot; he shall so number the stubs upon each ballot to correspond with the numbers of the electors in the poll book, beginning with number 1 for the first elector applying to vote, number 2 for the second elector, and so on, and he shall then tear off the stub upon which he wrote the elector's name. The clerk shall then deliver the ballot, with the remaining stub still attached thereto, to the elector. The said clerk shall give the elector one of said voter's political party official ballots, and one only. The clerk shall then, at once, and before issuing another ballot, deliver the stub containing the name and number of the elector to the judges, who shall pass it to the second clerk, who shall immediately enter the number in the poll book, and the name and residence and party of the elector opposite thereto, and shall retain the stub in his possession.

§ 27. Manner of Voting—Election Supplies, etc.

The provisions of sections 2819, 2820, 2821, 2822, 2823, 2824, 2825, 2826, 2827, 2828, 2829, 2830, 2831, and 2837 of Bellinger and

<i>For City Auditor of Portland</i>		<i>Vote for ONE</i>
80	Anton Kuhn, of Fifth Ward.	
81	Charles A. Layne, of Eleventh Ward.	
<i>For City Treasurer of Portland</i>		<i>Vote for ONE</i>
82	Wade O. Latimer, of Ninth Ward.	
83	Wilson F. Learned, of Seventh Ward.	
<i>For City Engineer of Portland</i>		<i>Vote for ONE</i>
84	Worden Q. Lockwood, of Fourth Ward.	
85	Otto R. Shields, of First Ward.	
<i>For Councilman, Seventh Ward</i>		<i>Vote for ONE</i>
86	Alderson Mason, of Seventh Ward.	
87	James Mayer, of Seventh Ward.	
<i>For Justice of the Peace</i>		<i>Vote for ONE</i>
88	Albert O. Marsh, of Multnomah County.	
89	Wills McLean, of Multnomah County.	
<i>For Constable</i>		<i>Vote for ONE</i>
90	Horace Mercher, of Multnomah County.	
91	Frederick H. Miller, of Multnomah County.	
<i>Republican candidates, for election, for County Central Committeeman from South Portland Precinct</i>		<i>Vote for ONE</i>
92	Franklin P. Smith, of Multnomah County.	
93	Wash C. Squires, of Multnomah County.	
94	Marion O. Swingerton, of Multnomah County.	

§ 24. Official Ballots and Sample Ballots—Number of.

There shall be provided and furnished at each primary nominating election for each election precinct for each voter duly registered therein as a member of a party subject to the provisions of this law, when the registration books are first closed as required by section 39 of this act, at least two official ballots intended to be voted, and a like number of the colored sample ballots. The sample ballots shall be duplicate impressions of the official ballots to be voted, but in no case shall they be white, or colored any shade of blue or yellow, nor shall the sample ballots have perforated stubs, nor shall they have the same margin, either at the top or sides or bottom, as the official voting ballots have, or nearer thereto than twelve points. These colored sample ballots shall be furnished as soon as printed, at any time before the primary nominating election by the respective county or city clerks, in reasonable quantities, to all electors applying for the same; and on the day of said election, under the direction

and control of the judges at each polling place, said colored sample ballots shall be given in proper quantities to all electors applying for them.

§ 25. Vacancy after Printing the Ballots—Cancellation of Names on Printed Ballot—Ballot Boxes, Election Supplies and Delivery by Sheriff—Polling Places—Judges and Clerks.

The provisions of sections 2811, 2812, 2813, 2814, 2815, 2816, and 2817 of Bellinger and Cotton's Annotated Codes and Statutes of Oregon shall apply to and are hereby made applicable to primary nominating elections under this law, as far as the same are not in conflict with this law.

§ 26. Manner of Voting.

Any person desiring to vote shall give his name and his residence and political party to the first of the election clerks, which clerk shall not be of the same political party as the chairman, who shall thereupon announce the name and residence and party distinctly, and write in the poll book kept by him the name and residence and party of the elector and the word "State," or "State and District," if he is qualified to vote for such officers only, and also write the name and residence of the elector, and, if proper, the word "State," or "State and District," with pen and ink upon the back of one of the stubs upon one of the voter's political party official ballots provided under this act; the clerk shall then with pen and ink write the number of the elector upon the back of each of the two stubs upon said ballot; he shall so number the stubs upon each ballot to correspond with the numbers of the electors in the poll book, beginning with number 1 for the first elector applying to vote, number 2 for the second elector, and so on, and he shall then tear off the stub upon which he wrote the elector's name. The clerk shall then deliver the ballot, with the remaining stub still attached thereto, to the elector. The said clerk shall give the elector one of said voter's political party official ballots, and one only. The clerk shall then, at once, and before issuing another ballot, deliver the stub containing the name and number of the elector to the judges, who shall pass it to the second clerk, who shall immediately enter the number in the poll book, and the name and residence and party of the elector opposite thereto, and shall retain the stub in his possession.

§ 27. Manner of Voting—Election Supplies, etc.

The provisions of sections 2819, 2820, 2821, 2822, 2823, 2824, 2825, 2826, 2827, 2828, 2829, 2830, 2831, and 2837 of Bellinger and

Cotton's Annotated Codes and Statutes of Oregon, so far as the same are not in conflict with and are not modified by this law, shall apply to and are hereby made applicable to primary nominating elections under the provisions of this law; *provided*, that the words "white ballot," in every section adopted from such codes and statutes, shall, when applied to said primary nominating election, be understood to mean, as to each political party nominating its candidates at such election, the official voting ballot of the respective political parties for that primary nominating election, whether such ballot be white, blue, or yellow, as provided in section 22 of this act; *and provided further*, that the Secretary of State, in furnishing the supplies for the primary nominating election, as required by section 2828 of said Bellinger and Cotton's Annotated Codes and Statutes of Oregon, shall also furnish a sufficient number of the brass clips, or other appropriate fastenings, to fasten together the ballots of each political party in each precinct, as required by section 7 of this act.

§ 28. Nomination of United States Senator.

At all general primary nominating elections next preceding the election of a senator in Congress by the legislature of Oregon there shall be placed upon the official primary nominating election ballots, by each of the county clerks and clerks of the county court, the names of all candidates for the office of senator in Congress, for whose nominations petitions have been duly made and filed under the provisions of this law, the votes for which candidates shall be counted and certified to by the election judges and clerks in the same manner as the votes for other candidates; and records of the vote for such candidates shall be made out and sworn to by the board of canvassers of each county of the State and returned to the Secretary of State at the same time and in like manner as they shall transmit other records and returns required by this law.

§ 29. Canvass of Returns.

On the third day after the close of any primary nominating election, or sooner if all the returns be received, the county clerk, taking to his assistance two justices of the peace of the county of different political parties, if practicable, shall proceed to open said returns and make abstracts of the votes. Such abstracts of votes for nominations for governor and for senator in Congress shall be on one separate sheet for each political party, and shall be immediately transmitted to the Secretary of State in like manner as other election returns are transmitted to him. Such abstract of votes for nominations of each party for secretary of state, state printer, state treas-

urer, justices of the supreme court, members of Congress, judges of the circuit court, district attorneys, and members of the legislative assembly, who are to be nominated from a district composed of more than one county, shall be on one sheet separately for each political party, and shall be forthwith transmitted to the Secretary of State, as required by section 30 of this act. The abstract of votes for county and precinct offices shall be on another sheet separately for each political party; and it shall be the duty of the said clerk immediately to certify the nomination for each party and enter upon his register of nominations the name of each of the persons having the highest number of votes for nomination as candidates for members of the legislative assembly, county, and precinct offices, respectively, and to notify by mail each person who is so nominated; *provided*, that when a tie shall exist between two or more persons for the same nomination by reason of said two or more persons having an equal and the highest number of votes for nomination by one party to one and the same office, the clerk whose duty it is to compare the polls shall give notice to the several persons so having the highest and equal number of votes to attend at the office of the county clerk, at a time to be appointed by said clerk, who shall then and there proceed publicly to decide by lot which of the persons so having an equal number of votes shall be declared nominated by his party; and said clerk shall forthwith enter upon his register of nominations the name of the person thus duly nominated, in like manner as though he had received the highest number of the votes of his party for that nomination; and it shall be the duty of the county clerk of every county, on the receipt of the returns of any general primary nominating election, to make out his certificate, stating therein the compensation to which the judges and clerks of election may be entitled for their services, and lay the same before the county court at its next term, and the said court shall order the compensation aforesaid to be paid out of the county treasury. In all primary nominating elections in this State, under the provisions of this law, the person having the highest number of votes for nomination to any office shall be deemed to have been nominated by his political party for that office.

§ 30. Duties of County Clerk after Canvass of Vote.

The county clerk immediately, after making the abstracts of votes given in his county, shall make a copy of each of said abstracts and transmit it by mail to the Secretary of State at the seat of government; and it shall be the duty of the Secretary of State, in the presence of the Governor and the State Treasurer, to proceed within fif-

teen days after the primary nominating election, and sooner if all returns be received, to canvass the votes given for nomination for governor, senator in Congress, secretary of state, state treasurer, state printer, justices of the supreme court, members of Congress, judges of the circuit court, district attorneys, joint senators and joint representatives, and all other officers to be voted for by the people of the State, or of any district comprising more than one county; and the Governor shall grant a certificate of nomination to the person having the highest number of votes for each office, and shall issue a proclamation declaring the nomination of each person by his party. In case there shall be no choice for nomination for any office by reason of any two or more persons having an equal and the highest number of votes of his party for nomination for either of said offices, the Secretary of State shall immediately give notice to the several persons so having the highest and equal number of votes to attend at the office, either in person or by attorney, of the Secretary of State, at a time to be appointed by said Secretary, who shall then and there proceed to publicly decide by lot which of the persons so having an equal number of votes shall be declared duly nominated by his party; and the Governor shall issue his proclamation declaring the nomination of such person or persons, as above provided.

§ 31. Error in Ballot or Count.

Whenever it shall appear by affidavit to the county court or judge thereof, or to the circuit court or judge thereof, that an error or omission has occurred or is about to occur in the printing of the name of any candidate or other matter on official primary nominating election ballots, or that any error has been or is about to be committed in the printing of the ballots, or that the name of any person or any other matter has been or is about to be wrongfully placed upon such ballots, or that any wrongful act has been performed or is about to be performed by any judge or clerk of the primary election, county clerk, canvassing board or member thereof, or by any person charged with a duty under this act, or that any neglect of duty by any of the persons aforesaid has occurred or is about to occur, such court or judge shall by order require the officer or person or persons charged with the error, wrongful act, or neglect, to forthwith correct the error, desist from the wrongful act, or perform the duty and do as the court shall order, or show cause why such error should not be corrected, wrongful act desisted from, or such duty or order performed. Failure to obey the order of any such court or judge shall be contempt. Any person in interest or

aggrieved by the refusal or failure of any person to perform any duty or act required by this law shall without derogation to any other right or remedy be entitled to pray for a mandamus in the circuit court of appropriate jurisdiction, and any proceedings under the provisions of this law shall be immediately heard and decided.

§ 32. Secretary of State May Send for Returns.

If the returns and abstracts of the primary nominating election of any county in this State shall not be received at the office of the Secretary of State within twelve days after said election, the Secretary of State shall forthwith send a messenger to the county court of such county, whose duty it shall be to furnish said messenger with a copy of said returns, and the said messenger shall be paid out of the county treasury of such county the sum of twelve cents for each mile he shall necessarily travel in going to and returning from said county. The county clerk, whenever it shall be necessary for him to do so in order to send the returns and abstracts within the time above limited, may send the same by telegraph, the message to be repeated, and the county shall pay the expenses of such telegram.

§ 33. Penalty for Official Misconduct.

If any judge or clerk of a primary nominating election, or other officers or persons on whom any duty is enjoined by this law, shall be guilty of any wilful neglect of such duty, or of any corrupt conduct in the discharge of the same, such judge, clerk, officer, or other person, upon conviction thereof, shall be punished by imprisonment in the penitentiary not less than one year nor more than five years, or by imprisonment in the county jail not less than three months nor more than one year, or by fine not less than \$100 nor more than \$500.

§ 34. Notice of Contest.

Any person wishing to contest the nomination of any other person to any state, county, district, township, precinct, or municipal office, may give notice in writing to the person whose nomination he intends to contest that his nomination will be contested, stating the cause of such contest briefly, within five days from the time said person shall claim to have been nominated.

§ 35. Service of Notice—Contest—How Heard.

Said notice shall be served in the same manner as a summons issued out of the circuit court three days before any hearing upon such contest as herein provided shall take place, and shall state the time

and place that such hearing shall be had. Upon the return of said notice served to the clerk of the county, he shall thereupon enter the same upon his issue docket as an appeal case, and the same shall be heard forthwith by the circuit court; *provided*, that if the case can not be determined by the circuit court in term time, within fifteen days after the termination of such primary nominating election, the judge of the circuit court may hear and determine the same at chambers forthwith, and shall make all necessary orders for the trial of the case and carrying his judgment into effect; *provided*, that the circuit court provision of this section shall not apply to township or precinct officers. In case of contest between any persons claiming to be nominated to any township or precinct office, said notice shall be served in the manner aforesaid, and shall be returned to the county court of the county.

§ 36. Contest for Precinct Officers—Trial, etc.

The provisions of sections 2841 and 2843, Bellinger and Cotton's Annotated Codes and Statutes of Oregon, so far as the same do not conflict with this law, shall apply to and are hereby made applicable to primary nominating elections held under the provisions of this law.

§ 37. Contest—How Tried and Decided.

Each party to such contest shall be entitled to subpoenas, and subpoenas *duces tecum*, as in ordinary cases of law; and the court shall hear and determine the same without the intervention of a jury, in such manner as shall carry into effect the expressed will of a majority of the legal voters of the political party, as indicated by their votes for such nominations, not regarding technicalities or errors in spelling the name of any candidate for such nomination; and the county clerk shall issue a certificate to the person declared to be duly nominated by said court, which shall be conclusive evidence of the right of said person to hold said nomination; *provided*, that the judgment or decision of the circuit court in term time, or a decision of a judge thereof in vacation, as the case may be, may be removed to the supreme court, in such manner as may be provided for removing such causes from the circuit court to the supreme court; *and provided further*, that appeals may be taken from the decision of the county court to the circuit court, in all of which cases the party removing any such judgment or decision by appeal, shall file in the proper court a bond to the opposite party, in such sum and with such sureties as shall be prescribed by a judge thereof, conditioned for the payment of all costs that may be properly taxed against them; *and provided*

further, that on any such appeal it shall be advanced on the docket and heard and decided on appeal soon enough to place the name of the successful contestant on the official white ballot as such nominee at the ensuing election, and said courts shall make the necessary rules to accomplish this result.

§ 38. Registration of Electors—Party Name to be Given.

In addition to the facts to be stated by the elector and registered by the provisions of sections 2861, 2862, and 2866 of Bellinger and Cotton's Annotated Codes and Statutes of Oregon, every elector shall be asked by the clerk or other registering officer of what political party or voluntary political organization he is a member, and it shall be the elector's duty to answer said question if he wishes to take part in making the nominations of any political party; and his answer shall then and there be entered in the register, in the column headed "Remarks," and such answer shall also be a part of the affidavit entitled "Oregon Registration Blank A," when such blank is used in the registration. If the elector shall answer that he is not a member of any political party or voluntary political organization, the clerk or registering officer shall enter the fact in said column headed "Remarks," and in said affidavit when the same is used, and if he shall decline to answer, the officer shall enter such refusal. In entering the answer in the register as to the political party or affiliation of the elector, it shall be sufficient to designate the political party by the first syllable of the first word of its name, as "Rep." for Republican, "Dem." for Democrat, "Soc." for Socialist, "Pro." for Prohibition, "Ind." for Independent, and "Non." for Nonpartisan or no party. No elector shall be qualified to vote, nor permitted to vote, at any such primary nominating election required by this law, and it shall be unlawful for him to offer to do so, unless he shall be registered, as above required, as a member of one of the political parties choosing and nominating its candidates for public office under the provisions of this law at such primary nominating election. Every qualified elector offering to vote at any such primary nominating election shall be given a ballot of the political party with which he is registered as a member, as above required, and he shall not be given a ballot of any other political party at that primary nominating election; *provided*, that nothing in this law shall be construed to deprive any elector of the right to register and vote at any primary nominating election required by this law, on his complying with the special provisions of this law, in the same manner that he is permitted by the general laws to register and vote at a general election.

§ 39. County Clerk to Register Electors.

[This section of the direct primary nominating elections law amended section 2865 of Bellinger and Cotton's Code, relative to the registration of voters, and will be found in its proper place among the sections of the code relative to the registration of voters, all of which are included in this compilation.]

§ 40. Registration of Electors.

The provisions of sections 2863, 2864, 2866, 2867, 2868, 2869, 2870, 2871, and 2873 of Bellinger and Cotton's Annotated Codes and Statutes of Oregon, shall apply to and are hereby made applicable to primary nominating elections held under the provisions of this law, so far as they are not in conflict herewith.

§ 41. Registers Closed, When.

[This section of the direct primary nominating elections law amended section 2872 of Bellinger and Cotton's Code, relative to the registration of voters, and will be found in its proper place among the sections of the code relative to the registration of voters, all of which are included in this compilation.]

§ 42. Challenge of Elector—Penalty for Violations of Law.

The provisions of sections 2874, 2875, 2876, 2877, 2878, and 2879 of Bellinger and Cotton's Annotated Codes and Statutes of Oregon, shall apply to and are hereby made applicable to primary nominating elections held under this law, so far as they are not in conflict herewith.

§ 43. Committeemen to be Elected by Each Party.

There shall be elected by each political party subject to this law at said primary nominating election a committeeman for each election precinct, who shall be a resident of such precinct. The committeeman thus elected shall be the representative of his political party in and for such precinct in all ward or subdivision committees that may be formed. The committee elected in each precinct in each county shall constitute the county central committee of each of said respective political parties. Those committeemen who reside within the limits of any incorporated city or town shall constitute *ex officio* the city central committee of each of said respective political parties, and shall have the same powers and jurisdiction as to the business of their several parties in such city matters that the county committee has in county matters, save only the power to fill vacancies in said committee, which power is vested in the county central committee.

Each committeeman shall hold such position for the term of two years from the date of the first meeting of said committee immediately following their election. In case of a vacancy happening on account of death, resignation, removal from the precinct, or otherwise, the remaining members of said county committee may select a committeeman to fill the vacancy, and he shall be a resident of the precinct in which the vacancy occurred. Said county and city central committees shall have the power to make rules and regulations for the government of their respective political parties in each county and city, not inconsistent with any of the provisions of this law, and to elect the county members of the state central committee and of the congressional committee, and said committees shall have the same power to fill all vacancies and make rules in their jurisdiction that the county committee has to fill county vacancies and make rules. Said county and city central committees shall have the power to make nominations to fill vacancies occurring among the candidates of their respective parties nominated for city or county offices by the primary nominating election, where such vacancy is caused by death or removal from the electoral district, but not otherwise. Said committees shall meet and organize by electing a chairman and secretary within five days after the candidates of their respective political parties shall have been nominated. They may select managing or executive committees and authorize such subcommittees to exercise any and all powers conferred upon the county, city, state, and congressional central committees respectively by this law.

§ 44. Penalty for Violation of Law.

If any candidate for nomination shall be guilty of any wrongful or unlawful act or acts at a primary nominating election which would be sufficient, if such wrongful or unlawful act or acts had been done by such candidate at the regular general election, to cause his removal from office, he shall, upon conviction thereof, be removed from office in like manner as though such wrongful or unlawful act or acts had been committed by him at a regular general election, notwithstanding that he may have been regularly elected and shall not have been guilty of any wrongful or unlawful act at the election at which he shall have been elected to his office.

§ 45. Penalty for Bribery, etc.

The provisions of sections 1900, 1901, 1902, 1903, 1904, 1905, 1906, 1907, 1908, 1909, 1910, 1911, 1912, and 1975 of Bellinger and Cotton's Annotated Codes and Statutes of Oregon, shall apply to and are hereby made applicable to primary nominating elections held under the provisions of this law.

§ 46. Repealing Certain Sections of Code.

Sections 2880, 2881, 2882, 2883, 2884, 2885, 2886, 2887, 2888, 2889, 2890, 2891, 2892, 2893, 2894, 2895, 2896, 2897, 2898, 2899, 2900, 2901, 2902, 2903, 2904, 2906, 2907, 2908, 2909, 2910, 2913, 2914, 2915, 2916, 2917, 2918, 2919, 2920, and section 2890 of Bellinger and Cotton's Annotated Codes and Statutes of Oregon, as amended by an act entitled "An act to amend section 2890, title XXVIII, chapter X of Bellinger and Cotton's Annotated Codes and Statutes of the State of Oregon, relating to hours of election," approved February 24, 1903, and published on page 213 of the General Laws of Oregon of the Legislative Assembly of 1903, shall be and the same are hereby repealed, and all other acts and parts of acts in conflict with this law, or any part thereof, so far as the same relate to primary elections, primary nominating elections, or the procedure for any such elections under this law, shall be and the same are hereby repealed so far as the same relate to primary nominating elections.*

*NOTE.—The foregoing act was proposed by the people by initiative petition and approved by a majority of the votes cast thereon at the general election held June 6, 1904. There were 56,285 votes cast for said law, and 16,354 against, and under the provisions of law, by a proclamation of the Governor, dated June 24, 1904, took effect on said date.

SECRETARY OF STATE.

§ 2905. Provisions of Australian Ballot Law Applicable.

The following sections of the act, commonly known as the "Australian Ballot Law," approved February 13, 1891, at page 8, shall apply to elections held under this act, namely, sections 15, 16, 17, 18, 19, 20, 21, 23, 24, 25, 26, 27, 28, 29, 35, 36, 39, 40, 41, 42, 43, 48, 51, 52, 55, 56, 57, 59, 62, 63, 64, 65, 66, 67, 69, 70, and 71 [sections 2775 to 2781, 2783 to 2789, 2795, 2796, 2799 to 2803, 2808, 2811, 2812, 2815, 2816, 2817, 2819, 2822 to 2827, 2829, 2830, 2831.] [L. 1901, p. 328, § 26.]†

†NOTE.—This section was section 26 of the act approved February 28, 1901, providing for primary elections in cities having a population of more than ten thousand inhabitants. All of said act, except this section, was repealed by the direct primary nominating elections law, adopted by the people at the general election held June 6, 1904, and although it appears to have no effect, it is published with this compilation for the reason that it still remains on the statute books.

§ 2911. Penalty for Voting Illegally, or Improperly Influencing Voters, or Tampering With Ballots.

Any person voting or offering to vote at any such election who would not be qualified to vote in the election precinct at the general election then next ensuing, or who has voted at the primary election

of any other political party or association held for the purpose of electing delegates to any convention at which the candidates of the respective parties are to be chosen for the ensuing election, or who shall vote more than once at the same or different polls on the same day at the same primary election, or, knowing that he is not a qualified voter at such election, wilfully votes or offers to vote at such election, or wilfully aids or abets any one not qualified to vote at such primary election in voting or attempting to vote at such election, or by offering or giving or promising to give a reward or bribe or money, or any valuable consideration, either directly or indirectly, to attempt to influence or to influence any voter in giving or withholding his vote at such election, or by bribery or by corrupt or unlawful means prevents or attempts to prevent any voter from attending or voting at such election; or if any one places any ballot in any ballot box in use at such election which has not been regularly voted and permitted to be voted by the judges thereat, or any one concealing or destroying or removing any ballot from such ballot box for the purpose of destroying or altering the same, or changing the result of the election, or for any other purpose except for the purpose of counting such ballots after the polls are closed, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than \$50 nor more than \$200, or by imprisonment in the county jail not less than two nor more than six months, or by both such fine and imprisonment, in the discretion of the court. [L. 1891, p. 6, § 6.]

§ 2912. Challenges—Oath Required—Refusal to Answer Questions—Attempt to Vote by Rejected Voter.

If any person offering to vote at any primary election be challenged by a judge or any qualified elector at said election as to his right to vote thereat, an oath shall be administered to him by one of the judges that he will truly answer all questions touching his right to vote at such election, and if he refuse to answer any question which may be put to him touching his right to vote at such election, or if it appear that he is not a qualified voter under the provisions of this act, his vote shall be rejected; and if any person whose vote has been so rejected shall offer to vote at the same election at any other polling place, he shall be deemed guilty of a misdemeanor, and be punished as provided in section 2911. [L. 1891, p. 6, § 7.]

CHAPTER II.

OF THE NOMINATION OF CANDIDATES.

§ 2791. Nomination by Political Party or Electors.

Any political party, and any assembly of electors as hereinafter defined, and also individual electors to the number hereinafter specified, by causing a certificate of nomination to be duly prepared and filed in the manner hereinafter provided, may nominate one candidate for each public office to be filled at the election, whose name shall be placed upon the ballots to be furnished as hereinafter provided. A political party, within the meaning of this act, is an affiliation of electors representing a political party which, at the general election next preceding, polled at least five per cent of the entire vote cast in the state, county, precinct, or other electoral district for which the nomination is made for representation in Congress, or which shall present a petition with the signatures of at least five per cent of the electors of that district, stating their intention to form a new political party, giving the designation thereof. An assembly of electors, within the meaning of this act, is an organized body of not less than one hundred electors of the state or electoral division thereof for which the nomination is made. [L. 1891, p. 18, § 31; H. C. p. 1184; L. 1901, p. 361, § 14.]

§ 2792. Certificates of Nomination—Verified by Affidavit.

Every such certificate of nomination made by such political party or assembly may contain the name of one candidate for each office to be filled at the election. It shall state such facts concerning the party or assembly as are required by section 31 of this act for its acceptance and as are required to be stated therein by section 34 of this act. In conclusion, it shall be signed by the presiding officer and secretary of the party or assembly by which it purports to be made, and an affidavit shall be made thereon by such presiding officer and secretary, and subscribed and sworn to (or affirmed) by them before some person authorized to administer oaths, to the effect that the statements therein are true, and the certificate of the oath or affirmation shall accompany the certificate of nomination. [L. 1891, p. 18, § 32; H. C. p. 1184; L. 1901, p. 362, § 15.]

§ 2793. Percentage of Electors to Nominate.

Every such certificate of nomination made by individual electors, as aforesaid, of a candidate for any office to be filled by the electors of the State at large, or for members of Congress, shall be signed

by not less than two per cent of the electors of the state or congressional district; and of a candidate for an office to be filled by the electors of an electoral district or county of the State, shall be signed by not less than three per cent of the electors of such district or county; and of a candidate for any office to be filled by the electors of a precinct or for the office of constable or justice of the peace, shall be signed by not less than three per cent of the electors of such precinct or justice of the peace district. For the purpose of this section, the number of electors shall be determined by the vote last cast for governor or presidential electors, as the case may be. Each elector signing a certificate of nomination shall add to his signature his place of residence, with the street and number thereof, if any, and each elector shall be qualified to subscribe to only one such certificate of nomination for each office to be filled at the election. Except in the case of electors of President and Vice President of the United States, every such certificate of nomination made by individual electors shall contain the name of only one candidate. At least two of the signers to each such certificate of nomination made by individual electors shall swear (or affirm) before some person authorized to administer oaths that the statement and signatures therein are true, and that the requisite number of signers thereto are qualified to make such nomination, and the certificate of such oath or affirmation shall be annexed to the certificate of nomination. [L. 1891, p. 19, § 33; H. C. p. 1185; L. 1901, p. 362, § 16.]

§ 2794. What Certificates of Nomination Shall State.

All certificates of nomination shall state such facts as are required by this act, and also (1) the name of the candidate; (2) the office for which he is nominated; (3) the party or political principle which he represents, expressed in not more than three words; (4) his place of residence, with street and number thereof, if any. In case of electors of President and Vice President of the United States, the names of the candidates for President and Vice President they represent may be added to the party or political appellation, and the names of all the nominees for electors of President and Vice President may be upon the same certificate of nomination. [L. 1891, p. 19, § 34; H. C. p. 1185.]

§ 2795. Qualifications of Nominating Electors.

No person who is not an elector shall be qualified to join in nominating any candidate. No elector shall be qualified to join in a certificate of nomination made by individual electors in nominating more than one person for each office to be filled. No person shall

be qualified to be a candidate for more than one office to be filled at the same election. [L. 1891, p. 19, § 35; H. C. p. 1186.]

§ 2796. Acceptance of Nomination.

A certificate of nomination may be accompanied by the acceptance of the nominee, in which case the acceptance shall be indorsed upon the certificate of nomination and signed by the nominee, or it may be by a letter or telegram from the nominee attached to the certificate of nomination and filed therewith. If the certificate of nomination is not thus accompanied by the acceptance of the nominee, he may at any time after the certificate of nomination is filed, and before the time for filing nominations for such office has expired, file his acceptance thereof in the same manner in the same office where the certificate of nomination is filed. The officer with whom it is filed shall indorse the same and attach it to the certificate of nomination to which it refers. Several different certificates of nomination may thus be filed nominating the same person for the same office, and the person so nominated may accept one or more of said nominations. But unless such nominee accepts a nomination in some one of the ways and within the time aforesaid, it shall not be considered as completed. [L. 1891, p. 19, § 36; H. C. p. 1186; L. 1901, p. 363, § 17.]

§ 2797. Certificates of State Nomination—When Filed.

All certificates of nomination of candidates for offices to be filled by the electors of the State at large and for members of Congress shall be filed with the Secretary of State. If such certificate of nomination be made by a convention or assembly, it shall be filed with the Secretary of State not more than one hundred (100) days and not less than forty-five (45) days before the day fixed by law for the election. If such certificate of nomination be made by individual electors, it shall be filed with the Secretary of State not more than one hundred (100) and not less than thirty (30) days before the day fixed by law for the election. [L. 1891, p. 20, § 37; H. C. p. 1187.]

§ 2798. Certificates of District Nominations—When Filed.

All certificates of nomination of candidates for offices to be filled by the electors of an electoral district, other than a congressional district, or county, or precinct, shall be filed with the county clerk of the county; and if such electoral precinct embraces more than one county, then a duplicate thereof shall be filed with the county clerk of each county within such electoral district. If such certificate of nomination be made by a political party or assembly, it shall be filed with such county clerk or clerks not more than one hundred (100)

days and not less than thirty (30) days before the day fixed by law for the election. If such certificate of nomination be made by individual electors, it shall be filed with such county clerk or clerks not more than one hundred (100) days and not less than fifteen (15) days before the day fixed by law for the election. [L. 1891, p. 20, § 38; H. C. p. 1187; L. 1901, p. 364, § 18.]

§ 2799. Register of Nominations.

Immediately after each certificate of nomination is filed, the county clerk shall enter in a book marked "Register of Nominations," the date when the certificate was filed with him, the name of each candidate, the office for which he is nominated, and the name of the party or convention or assembly making the nomination, together with the names of the chairman and secretary certifying the same; and in case the certificate of nomination is made by individual electors, the names of the two signers who make oath thereto, and the total number of signatures thereto. As soon as the acceptance or withdrawal of the candidate is filed, it shall also be entered upon said register. [L. 1891, p. 20, § 39; H. C. p. 1187.]

§ 2800. Copies of Records.

All such certificates of nomination, acceptances, and withdrawals, as soon as filed, shall be public records, and shall be open to public inspection under proper regulations; and when a copy of any certificate of nomination, acceptance, or withdrawal is presented at the time the original is filed, or at any time thereafter, and a request is made to have such copy compared and certified, the officer with whom such certificate of nomination was filed shall forthwith compare such copy with the original on file, and, if necessary, correct the copy and certify and deliver the copy to the person who presented it. All certificates of nomination, acceptances, withdrawals, poll books, tally sheets, ballots, and ballot stubs shall be preserved as other records are for two years after the election to which they pertain, at which time, unless otherwise ordered or restrained by some court, the county clerk shall destroy the ballots and ballot stubs by fire without any one inspecting the same. [L. 1891, p. 21, § 40; H. C. p. 1188.]

§ 2801. Withdrawing Nomination.

Any person who has been nominated and accepted some nomination, as provided in this act, may cause his name to be withdrawn from nomination at any time prior to election by a writing, declining the nomination, stating the reason, signed and acknowledged by him be-

fore some officer authorized by the laws of this State to take acknowledgment of deeds, and certified by such officer, and by filing the same with the Secretary of State or county clerk or clerks with whom the certificate nominating him as a candidate was filed. Such withdrawal may be sent by telegram to the Secretary of State through a county clerk, as provided by section 44 of this act in case of certificates of nomination. [L. 1891, p. 21, § 41; H. C. p. 1188.]

§ 2802. Notice of Death or Withdrawal.

If any person nominated as herein provided dies or withdraws before the day fixed by law for the election, and the fact of the death becomes known to the satisfaction of the officer, the Secretary of State or county clerk or clerks in whose offices the certificate of nomination nominating such person was filed, shall forthwith give notice by posting a certificate of the fact in a conspicuous place in his office. In every such case the name of the candidate who has died or withdrawn shall not be printed upon the ballots, and if already printed, shall be erased or canceled before the ballots are delivered to the electors. [L. 1891, p. 21, § 42; H. C. p. 1189.]

§ 2803. Nomination to Fill Vacancy.

If the original nomination thus vacated was made by a political party or assembly, and such party or assembly can reconvene, it may fill the vacancy before the day fixed by law for the election. If the party or assembly has delegated to a committee the power to fill such vacancies, such committee may likewise fill the same. In every case where the original candidate dies or withdraws as many certificates of nomination made by electors to fill the same office shall be filed as are duly presented to the proper officer before the day fixed by law for the election. The certificate to fill such vacancy shall substantially conform with the requirements for an original certificate of nomination, and shall be filed with the same officer the original certificate was filed with. [L. 1891, p. 21, § 43; H. C. p. 1189; L. 1901, p. 364, § 19.]

§ 2804. Certificate to Fill Vacancy—How Filed.

When such original certificate of nomination thus vacated was filed with the Secretary of State, the certificate to fill the vacancy thus occasioned shall be filed with him, and it may be filed directly with the Secretary of State, or in the following manner: It may be presented in duplicate to any county clerk, who shall file one of the certificates in his office, and upon being tendered the cost of transmitting the same, it shall be the duty of such county clerk to forth-

with cause the certificate of nomination to be telegraphed to the Secretary of State, and repeated back; and he shall also forthwith mail the duplicate thereof by registered letter to the Secretary of State. The Secretary of State shall file said telegraphic copy of the certificate, the same as if it was the original, and he shall also file the duplicate when the same arrives by mail. The Secretary of State shall, in certifying the nominations to the several county clerks, omit the name or names of all such candidates filed with him who die or withdraw, as aforesaid, and instead thereof he shall certify the name or names of the persons who have thus been nominated to fill such vacancy. In the event that he has already sent forth his certificate, he shall forthwith certify to each county clerk by telegraph, if necessary, the name and residence of each person so nominated to fill such vacancy, the office he is nominated for, the party or principle he represents, and the name of the person for whom such nominee or nominees are substituted. Every county clerk shall proceed thereafter in conformity with said later certifications. [L. 1891, p. 22, § 44; H. C. p. 1189.]

§ 2805. Arrangement and Notice of Nomination.

Not more than thirty (30) days and not less than twenty-eight (28) days before the day fixed by law for the election, the Secretary of State shall arrange, in the manner provided in this act for the arrangement of the names and other information upon the ballots, all the names and other information concerning all the candidates contained in the certificate of nomination which have been filed with him, and accepted by the nominees, in accordance with the provisions of this act, and he shall forthwith certify the same under the seal of the State and file the same in his office, and make and transmit a duplicate thereof by registered letter to the county clerk of each county in the State; and he shall also post a duplicate thereof in a conspicuous place in his office and keep the same posted until after said election has taken place. [L. 1891, p. 22, § 45; H. C. p. 1190.]

§ 2806. Arrangement of Ballots and Notice.

Not more than fifteen (15) and not less than twelve (12) days before the day fixed by law for the election, the county clerk of each county shall arrange, in the manner provided by this act for the arrangement of the names and other information upon the ballot, all the names and other information concerning all the candidates contained in the certificates of nomination which have been filed with him and accepted by the nominees, and which have been certified to him by the Secretary of State in accordance with the provisions of

this act, and he shall forthwith certify the same under the seal of the county court and file the same in his office, and make and post a duplicate thereof in a conspicuous place in his office, and keep the same posted until after the election has taken place; and he shall forthwith proceed and cause to be printed, according to law, the colored or sample ballots and the white ballots required by this act. [L. 1891, p. 23, § 46; H. C. p. 1190.]

§ 2807. Ballots Printed and Furnished by County Clerk.

The county clerk of each county shall cause to be printed, according to law, all the ballots required under the provisions of this act, and shall furnish the same in the manner hereinafter provided for the use of all electors in the county. Ballots other than those furnished by the respective county clerks according to the provisions of this act shall not be used or circulated, or cast or counted, in any election provided for in this act. [L. 1891, p. 23, § 47; H. C. p. 1190.]

§ 2808. Directions as to Ballots and Sample Ballots.

All ballots designed to be voted shall be printed in black ink upon a good quality of white paper, and shall be alike and of the same size in the same county at the same election. Duplicate impressions of the same shall be printed upon cheaper colored paper, so as to be readily distinguished from the white ballots. These colored ballots shall be used solely as sample ballots for the information and convenience of voters, and shall not be voted, and, if voted, shall not be counted. [L. 1891, p. 23, § 48; H. C. p. 1191.]

TITLE VIII.

OF ELECTIONS.

CHAPTER I. OF THE TIME AND MANNER OF HOLDING ELEC-	
TIONS	§ 2761
II. OF THE NOMINATION OF CANDIDATES.....	§ 2791
III. OF BALLOTS	§ 2809
IV. OF POLLING PLACES, AND PROVISION FOR VOT-	
ING	§ 2816
VIII. OF PRESIDENTIAL ELECTORS	§ 2856
IX. OF REGISTRATION OF VOTERS	§ 2860

CHAPTER I.

OF THE TIME AND MANNER OF HOLDING ELECTIONS.

§ 2761. Time of Election—Officers to be Elected.

A general election shall be held in the several election precincts in this State on the first Monday in June, 1892, and biennially thereafter, at which there shall be chosen so many of the following officers as are by law to be elected in such year, namely, a governor, secretary of state, state treasurer, superintendent of public instruction, state printer, justices of the supreme court, members of Congress, circuit judges, members of the state senate and house of representatives, county judges, district attorneys, county superintendents of common schools, commissioners of the county court, county clerks, sheriffs, county treasurers, coroners, assessors, county surveyors, justices of the peace, and constables, and all other state, district, county, and precinct officers provided by law. [L. 1891, p. 9, § 1; H. C. p. 1172.]

Elections for school directors are not general elections, and not being held in pursuance of the Governor's writ are not special elections, and the general election laws do not apply thereto: *Breeding v. Williams*, 37 Or. 436, 61 Pac. 858.

§ 2762. Election Precincts.

It shall be the duty of the county court in the several counties of the State, at the regular term in November preceding the general election, to set off and establish election precincts within the county. Said court may set off and establish within such county as many election precincts as may be deemed necessary or convenient, and

they shall be designated by numbers or names; *provided*, that no election precinct shall contain more than three hundred electors, as nearly as may be ascertained by the court, and the order setting off and establishing each election precinct shall particularly bound the same, and the lines thereof shall conform to established ward and road district boundaries. [L. 1891, p. 9, § 2; H. C. p. 1172; L. 1901, p. 351, § 2.]

§ 2763. Election Judges—Qualifications and Duties.

The county court shall at the regular term in January preceding a general election, appoint three judges and three clerks of election for each election precinct, to serve for the period of two years, and shall designate one judge to be chairman. Said judges and clerks shall each be duly qualified electors within the precinct for which they are appointed; able to read, write, and speak the English language, not a candidate for an elective office to be voted for at the ensuing election. No more than two judges and two clerks shall be members of the same political party, and they shall be appointed from the two political parties which respectively cast the highest and next highest number of votes for the presidential electors of the United States at the last preceding presidential election. At least ten days before any election authorized by law, the county court shall designate one polling place in each precinct, and fill all vacancies that may happen among said judges and clerks by reason of death, removal from the precinct, disqualification or excused by the board for good and sufficient cause. The said judges and clerks shall meet at 8 o'clock A. M. at their respective polling places, at the times prescribed by law for holding a general or special or presidential election, to act as judges and clerks of such election until relieved by the second board. [L. 1891, p. 9, § 3; H. C. p. 1172; L. 1901, p. 351, § 3.]

§ 2764. Additional Judges and Their Meetings.

In all election precincts in which were cast one hundred and fifty (150) or more ballots at the last general election, or in which the county court believes that many ballots will be cast at the next general election, the county court may likewise, at said January term, appoint a second or additional board, consisting of three judges and three clerks for each precinct, who shall hold their offices for two years, and who shall possess the same qualifications and exercise the same authority as the first board mentioned in section 2763. The judges and clerks constituting the second board, for each precinct,

shall meet at 7 o'clock P. M. at their respective polling places, as designated in the order appointing them, at the times prescribed by law for holding a direct primary election, a general or special, or presidential election, and at said hour of seven (7) o'clock P. M., shall relieve and take the place of the said first board, and shall forthwith proceed to count and tally the ballots, in the manner prescribed by law. In case the count is not completed by seven (7) o'clock A. M. of the next following day, the said first board shall reconvene and relieve the second board, and continue said count until seven (7) o'clock P. M. when, if the count is not yet completed, the second board shall reconvene and again relieve the first board, and so, alternately, until said boards have fully completed the count and certified the returns. Judges and clerks constituting the first board, before being relieved by the second board at seven (7) o'clock P. M. of the first day, shall certify and sign the poll books as required by section 22 of the Australian ballot law [section 2782]. The judges and clerks constituting the several boards shall number the ballots and count the tallies upon the tally sheets, as hereinafter provided, and certify the returns, so as to distinctly show the work of each board separately. [L. 1891, p. 10, § 4; H. C. p. 1173; L. 1901, p. 352, § 4.]

§ 2765. List of Judges to be Posted—Remonstrances—Election Notices.

Immediately after the appointment of said judges and clerks at said January term, as required by sections 2763 and 2764, the clerk of the county court shall make a complete list, and certify the same, showing the names of the judges and clerks so appointed for each precinct, and post the same in a conspicuous place in his office, and keep the same posted for three months. All electors shall thereupon be entitled to make and file with the county clerk, without charge, their objections, remonstrances, and suggestions, in respect to said appointments, with a view to have said appointments revised by the court. At 10 o'clock A. M. on the second Wednesday of the following February term of the several county courts is hereby designated as the time at which the county court shall hear all objections, remonstrances, and suggestions from electors in regard to the said appointments of the said judges and clerks, and the court shall continue in session from day to day, without permitting other business to interfere therewith, until all such objections, remonstrances, and suggestions are heard and determined, and the decisions of the court made and announced. When said appointments have been announced at said February term, the county clerk shall forth-

with make a complete and revised list of the judges and clerks so last appointed, and certify the same, showing the names of the judges and clerks so appointed for each precinct, and keep the same in a conspicuous place in his office for two years, for public inspection. The clerk shall then immediately proceed and notify each of said appointees, by mail, of his appointment, and request his acceptance in writing. The clerk shall procure a notification book, substantially in the following form, and use the same in notifying said appointees and preserving a record of the matter:

<i>Stub No.</i>	<i>Notice No.</i>	<i>Acceptance No.</i>
<i>Name</i>	<i>To</i>	
<i>Post office address</i>	<i>Post office address</i>	[<i>Note</i> —Any judge or clerk of election who accepts this appointment, and thereafter fails to attend and perform his duties, is subject to fine and imprisonment.]
	You are hereby notified that the county court on, 19...., appointed you, of Precinct No., County, Oregon, to serve for two years.	I hereby accept the appointment of, of election for, Precinct,, County, Oregon, for two years from this day of, 19....
Clerk, or judge or chairman, Precinct No., County, Oregon.	Please sign and return to me your acceptance of the office upon attached blank.	
<i>Date of appointment:</i>	[L. S.], Clerk of the county court for, County, Oregon.	Appointee

Immediately upon receipt of the acceptance of the appointee, the clerk shall file the same and attach the acceptance to the stub. The judge or clerk of election who accepts his appointment, and thereafter fails to attend promptly and perform his duties as such clerk or judge, shall be deemed in contempt of the court, and shall be summarily summoned to appear before the court, and in every case of wilful neglect to serve shall be compelled to pay the costs of the proceeding, and shall be fined and imprisoned, not exceeding \$50 and one month in the county jail, in the discretion of the county judge. In case of the neglect or omission of the appointee to accept the appointment within two weeks after being notified, the court shall proceed to appoint some other qualified person, pursuing the same open, public, and fair method as in the first instance, and likewise in the case of vacancies happening during the term of two years by resignation, death, or removal from the county. It shall be the duty of the county clerk thirty days before any general or presidential election, and at least ten days before any special election, to prepare printed notices of the election, and mail two of said notices to each judge and each clerk of election in each precinct; and it shall be the duty of the several judges and clerks to immediately post

said notices in public places in their respective precincts. Said notices shall be in the following form:

ELECTION NOTICE.

Notice is hereby given that on the, 19.., at the, in the precinct of, in the county of, Oregon, [insert character] election will be held for state, district, county, precinct, and other officers, namely [here name the offices to be filled]; which election will be held at eight o'clock in the morning and will continue until seven in the afternoon of said day.

Dated this day of, 19...

_____, _____, County Clerk.

[L. 1891, p. 10; H. C. p. 1173; L. 1901, p. 352, § 5.]

§ 2766. Oath of Judges and Clerks.

Before entering upon the discharge of their duties, the said judges and clerks shall each take and subscribe the following oath in each of the poll books, which oath shall be administered by any officer authorized to administer oaths, or the chairman, if he be present, and if not, then by one of the judges: "I, — — —, do solemnly swear (or affirm) that I will perform the duties of judge of election (or clerk, as the case may be,) according to law; that I will studiously endeavor to prevent fraud, deceit, and abuse in conducting the election." [L. 1891, p. 10, § 6; H. C. p. 1174.]

§ 2767. Absent Judge—Place, How Filled.

In case one or more of such judges of election shall not be present at the time prescribed by law, the other judges and the clerks of the board who are present shall, *viva voce*, elect a qualified person to act as judge of election until the tardy appointee arrives, and in case he does not arrive within one half hour, to serve in his stead. The person so chosen, in addition to his other qualifications, shall be of the same political affiliation as the absent official. The new appointee shall take and subscribe the official oath before acting. The compensation allowed the substitute shall be deducted from the pay of the tardy official. [L. 1891, p. 10, § 7; H. C. p. 1174; L. 1901, p. 354, § 6.]

§ 2768. Absent Clerks' Places Filled—Extra Pens and Pencils Removed.

In case one or more of said election clerks shall not be present at the time prescribed by law, the judges of the election board shall, *viva voce*, elect a qualified person to act as clerk of election until the tardy appointee arrives, and in case he does not arrive within one half hour, to serve in his stead. The person so chosen, in addition to the other qualifications, shall be of the same political affilia-

tion as the absent official. The new official shall take and subscribe the official oath before acting. The compensation allowed the substitute shall be deducted from the pay of the tardy official. While the counting is being conducted, no one of the board shall be allowed to have at or in his hands any pencil or pen of any kind, except the clerks keeping the official tally sheets and the third judge engaged in numbering and signing his name on the back of each ballot after it is counted and handed to him, and the clerks and the third judge shall have and use only pen and ink. All extra pens and all pencils shall be removed from the place where the count is being conducted; *provided, however*, that candidates, or their duly appointed agents, to such reasonable number, not more than three, as apply to the judges, shall be allowed to have desk facilities outside the guard rail, but near enough to distinctly hear the chairman as he reads aloud each ballot, so they may be able to keep a private tally sheet in accord with the official clerks. The chairman and the second judge, especially, shall not have any pen or pencil at hand, or in their hands, during the time of taking out, unfolding, and reading and counting the several ballots. [L. 1891, p. 10, § 8; H. C. p. 1174; L. 1901, p. 355, § 7.]

§ 2769. Opening and Closing Polls—Conduct of Election and Count.

All general, special, and presidential elections held in this State shall be conducted under the provisions of this act, and the polls shall be opened at the hour of 8 o'clock in the forenoon and continue open until 7 o'clock in the afternoon of the same day, at which time the polls shall be closed. Prior to opening the polls the chairman of said judges of election shall make public proclamation of the same, and thirty minutes before closing of the polls public proclamation shall be made by the same officer that the polls will be closed in half an hour. The judges, in their discretion, may adjourn the polls at one (1) o'clock for one hour, proclamation of the same being made, but the judges and clerks shall keep together, and at no time shall more than one of them be out of the presence of the others. The ballot boxes, poll books, ballot stubs, and tally sheets shall be constantly kept together in the presence and view of at least four of the said officers, and the candidates and persons duly appointed, as provided in section 18 of the Australian ballot law [section 2778], from the opening of the polls until the count is completed and the returns signed and sealed as hereinafter provided; and after the count has once begun it shall continue until fully completed, without any adjournment, and in the presence of

all judges and clerks, and persons duly authorized to be present. [L. 1891, p. 11, § 9; H. C. p. 1174; L. 1901, p. 355, § 8.]

See note to § 2761.

§ 2770. Certificates of Nomination.

In all special elections the certificate of nomination may be filed at any time between the date of the writ authorizing the election and ten days previous to the time of holding the election, and in all other matters and proceedings therein the provisions of this act shall apply, so far as the same are applicable, to such special election. [L. 1891, p. 11, § 10; H. C. p. 1175; L. 1901, p. 356, § 9.]

See note to § 2761.

§ 2771. Challenges.

It shall be the duty of each judge or clerk of election, or any elector present, to challenge any person offering to vote whom he shall know or suspect not to be qualified as an elector. [L. 1891, p. 11, § 11; H. C. p. 1175.]

§ 2772. Oath and Examination of Elector.

If a person offering to vote is challenged as unqualified by any one enumerated in section 2771, the chairman of said judges shall administer to him the following oath or affirmation: "You do solemnly swear (or affirm) that you will fully and truly answer all such questions as shall be put to you touching your place of residence and qualifications as an elector at this election." The chairman shall then propound such questions to the person challenged as may be necessary to test his qualifications as an elector at that election. The judges may hear such other testimony and consider such other evidence as is proper upon the question. If all the judges can not agree, the majority of the judges shall decide the matter. [L. 1891, p. 11, § 12; H. C. p. 1175.]

School elections are not governed by the provisions of the general election laws, and if a qualified elector is challenged, the judge is under no obligation to determine his right to vote as would be required at a general or special election: *Breeding v. Williams*, 37 Or. 433, 61 Pac. 858.

§ 2773. Refusal to Answer.

If the person so challenged shall refuse to answer fully any question touching his qualifications as an elector which shall be put to him, the judges shall reject his vote. [L. 1891, p. 11, § 13; H. C. p. 1175.]

§ 2774. Oath of Qualification.

If the challenge be not withdrawn after the person offering to vote shall have answered the questions put to him as aforesaid, the

tion as the absent official. The new official shall take and subscribe the official oath before acting. The compensation allowed the substitute shall be deducted from the pay of the tardy official. While the counting is being conducted, no one of the board shall be allowed to have at or in his hands any pencil or pen of any kind, except the clerks keeping the official tally sheets and the third judge engaged in numbering and signing his name on the back of each ballot after it is counted and handed to him, and the clerks and the third judge shall have and use only pen and ink. All extra pens and all pencils shall be removed from the place where the count is being conducted; *provided, however*, that candidates, or their duly appointed agents, to such reasonable number, not more than three, as apply to the judges, shall be allowed to have desk facilities outside the guard rail, but near enough to distinctly hear the chairman as he reads aloud each ballot, so they may be able to keep a private tally sheet in accord with the official clerks. The chairman and the second judge, especially, shall not have any pen or pencil at hand, or in their hands, during the time of taking out, unfolding, and reading and counting the several ballots. [L. 1891, p. 10, § 8; H. C. p. 1174; L. 1901, p. 355, § 7.]

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§ 2774. Oath of Qualification.

If the challenge be not withdrawn after the person offering to vote shall have answered the questions put to him as aforesaid, the

chairman of said judges shall administer to him the following oath: "You do solemnly swear (or affirm) that you are a citizen of the United States, or have declared your intention to become such, one year next preceding this election; that you are of the age of twenty-one years; that you have been a resident of this State for six months next preceding this election; that you now reside in this precinct; that you have not yet voted at this election, and that your true name is as you represent it to be." If the elector only claims the right to vote for state, or district and state, officers, the oath shall be modified accordingly. [L. 1891, p. 11, § 14; H. C. p. 1175.]

§ 2775. Record of Challenge.

Whenever any person's right to vote shall be challenged, and he has taken the oath prescribed by section 2774, it shall be the duty of the clerks of election to write on the poll books at the end of such person's name the words "challenged and sworn," and the further words "rejected" or "voted," according to the fact. [L. 1891, p. 11, § 15; H. C. p. 1176.]

§ 2776. Rules to Determine Qualification.

The judges of election, in determining the residence and qualifications of persons offering to vote, shall be governed by the following rules, so far as the same may be applicable:

1. The place shall be considered and held to be the residence of a person in which his habitation is fixed, and to which, whenever he is absent, he has the intention of returning.

2. A person shall not be considered or held to have lost his residence who shall leave his home and go into another State or Territory, or county of this State, for a temporary purpose only.

3. A person shall not be considered or held to have gained a residence in any county of this State into which he shall come for temporary purposes only, without the intention of making said county his home, but with the intention of leaving the same when he shall have accomplished the business that brought him into it.

4. If a person remove to any other State, or to any of the territories, with the intention of making it his permanent home, he shall be considered and held to have lost his residence in this State.

5. The place where a married man's family reside shall be considered and held to be his residence.

6. The place where an unmarried man sleeps shall be considered and held to be his residence.

7. If a person shall go from this State into another State or

Territory and there exercise the right of suffrage, he shall be considered and held to have lost his residence in this State.

8. All qualified electors shall vote in the election precinct in the county where they may reside for county officers, and in any county in the State for state officers, or in any county of a congressional district in which such electors may reside for members of Congress. [L. 1891, p. 12, § 16; H. C. p. 1176.]

§ 2777. Ballot Boxes to be Opened Before Voting Begins—Keys.

It shall be the duty of the judges of election, or the chairman thereof, immediately before proclamation is made of the opening of the polls, to open the ballot boxes in the presence of the people there assembled, and turn the same upside down, so as to empty the said boxes of anything that may be in them, and then lock said boxes securely, and they shall not be reopened until for the purpose of counting the ballots therein at the close of the election. During the election one of the judges, other than the chairman, shall have the custody of the keys. [L. 1891, p. 13, § 17; H. C. p. 1177.]

§ 2778. Restrictions Within Fifty Feet of Polls.

In all incorporated cities and towns in this State no person shall approach or stand within fifty feet of the polls when open for the purpose of receiving votes, except such peace officers as are particularly selected or appointed by the judges to preserve order or enforce the law within such limits, and electors actually desiring and proceeding to vote, and but ten electors shall be permitted to approach the polls within fifty feet at the same time; *provided, however*, that the said judges of election shall, if requested, permit one person from each political party, selected by the party, to stand outside of the guard rail at the polls, while open for receiving votes, for the purpose of challenging voters; and the said judges of election shall, if requested, permit the respective candidates, or some person selected by a candidate or by several candidates, or by a political party, to be present in the room, but outside of the guard rail, where the said judges are during the time of receiving and counting the votes. Such selection shall be evidenced by a writing signed by the chairman and secretary of such political party, or by the candidate or candidates, and presented to and filed with the judges. [L. 1891, p. 13, § 18; H. C. p. 1177.]

§ 2779. Powers of Judges of Elections to Punish Offenses.

For the purpose of holding elections and preserving order at the polls, the judges of election are hereby appointed and invested with

the jurisdiction and authority of justices of the peace during the time of holding elections, and they, or a majority of them, are hereby authorized to impose and enforce a fine not exceeding \$50 for each offense, to be applied to the benefit of the school fund, on any person or persons who shall conduct themselves in a disorderly or riotous manner at the polls, and shall persist in such conduct after having been warned of the consequences, or who shall refuse to move from the polls fifty feet when directed, or on any person who shall be detected in the commission, in the immediate presence of the judges, of any offenses defined by this act; and on the refusal or neglect to forthwith pay the same to the chairman, to commit him or them to the common jail of the county for any time not exceeding twenty-five days, or until the fine is paid; and the sheriff, deputy sheriff, constable, and jailor, and policeman of any incorporated city or town, are hereby required to forthwith execute said order as though it had been issued by a magistrate in due form of law. If no sheriff, deputy sheriff, constable, or policeman be present, the judges may appoint a special constable or constables to execute their orders. [L. 1891, p. 13, § 19; H. C. p. 1178.]

§ 2780. Compensation of Election Officers.

There shall be allowed by the county court of each county to the several judges and clerks of elections \$3 per day while holding elections, and to the person carrying the poll book, tally sheet, ballot boxes, and ballot stubs and other property from the place of election to the clerk's office, the sum of ten cents per mile for going and returning, to be paid out of the county treasury; and each county court shall audit and pay out of the county treasury such fees as the services performed by the county clerk and the sheriff, under this act are, in the judgment of the county court, reasonably worth; also such other necessary expenses as are incurred by such officers in carrying out the provisions of this act. [L. 1891, p. 14, § 20; H. C. p. 1178.]

See note to § 2807.

§ 2781. In Counties Without Clerk, Clerk of County Court to Act.

In all counties which have no county clerk, the clerk of the county court shall perform all the duties required by this act to be done or performed by the county clerks in the other counties, and all things which are required by this act to be done or filed in the office of the county clerk, in all counties having no such office, the same shall be

done or filed in the office of the clerk of the county court of such county. [L. 1891, p. 14, § 21; H. C. p. 1179.]

Section 2781, as passed by the legislature, reads: "In Multnomah County, and in all other counties which have no county clerk," etc. The act of 1901, p. 282 (§§ 2569 to 2571), abolished the office of clerk of the county court of Multnomah County, and created that of county clerk, upon whom the duties of the former office are devolved. The act provides, in effect, that wherever the office of clerk of the county court is mentioned in any law or statute, it shall be read so as to mean county clerk. This section (2781), in view of the act of 1901 above referred to, has been changed by omitting all reference to Multnomah County. See note to § 2571.

§ 2782. Form of Poll Books—Names of Electors to be Certified.

The following shall be the form of the poll books to be kept by the judges and clerks of election under this act:

POLL BOOK OF THE ELECTION HELD IN PRÉCINCT, IN THE
COUNTY OF ON THE DAY OF,
IN THE YEAR 19...

State of Oregon, County of, Precinct, ss.

We, and, judges of said election, being first duly sworn, severally say upon oath, I will perform the duties of judge of election according to law, and that I will studiously endeavor to prevent fraud, deceit, and abuse in conducting the election.

_____, Chairman.

_____, Judge.

_____, Judge.

Subscribed and sworn to before me this day of, 19...

State of Oregon, County of, Precinct, ss.

We, and, clerks of said election, being first duly sworn, severally say upon oath, I will perform the duties of clerk of election according to law, and that I will studiously endeavor to prevent fraud, deceit, and abuse in conducting the election.

_____, Clerk.

_____, Clerk.

Subscribed and sworn to before me this day of, 19...

A. B., chairman, C. D. and E. F., the judges, and G. H. and J. K., clerks of said election, were respectively sworn (or affirmed) according to law, previous to their entering on the duties of their respective offices.

NUMBER AND NAMES OF ELECTOR.

No. 1. (Name of elector.)

No. 2. (Name of elector.)

No. 3. (Name of elector.)

We hereby certify that the number of electors who voted at the above polling place and election was as follows:

Voted for state, district, county, and precinct officers.....(No.)

Voted for district and state officers.....(No.)

Voted for state officers.....(No.)

Total number of ballots cast.....(No.)

_____, Chairman.

_____, Judge.

_____, Judge.

_____, Clerk.

(Who kept this poll book)

_____, Clerk.

(Who kept the other poll book.)

Immediately after the close of the polls the names of the electors who voted shall be counted, and the number written and certified in each of the poll books at the end of the list, and the same shall be immediately signed by the chairman and each of the judges and clerks in the manner indicated above. [L. 1901, p. 14, § 22; H. C. p. 1179.]

The official returns or canvass when duly certified is *prima facie* evidence that the result is as declared. As against ballots not properly kept and the identity of which is not shown, such official canvass, though secondary, is the better evidence; but the official canvass, unless made so by statute, is never conclusive. When it is shown, however, that the ballots have not been tampered with, they are the best evidence: *Hartman v. Young*, 17 Or. 155, 20 Pac. 17, 11 Am. St. Rep. 787, note.

§ 2783. Ballots Read, Counted, Talled, and Strung.

Within one hour after the poll books are signed in the manner prescribed in section 2782, if there is but a single board, but if there is a second board, then the second board shall proceed forthwith to read and tally each ballot. Only one ballot shall be removed from the box at one time, and it must be fully read, counted, and tallied before another ballot is removed from the box. The chairman shall take out one ballot and shall immediately read and announce distinctly while the ballot remains in his hands, and while one of the judges, not of the same political party as the chairman, and such bystanders as have a right to be present outside the guard rail, overlook the ballot, *first*, the number corresponding with the printed name, and also the surname of the person voted for, for each office; *second*, the name of each person whose name has been written in the ballot, and the name of the office for which the ballot is to count; then deliver the ballot to the second judge, who shall examine the same, and who shall pass it to the third judge, who shall also examine the same, and immediately fold it and sign his name upon the outer back of the ballot, and number it consecutively in the order

in which it is counted, with pen and ink, and string it on a strong string and carefully preserve the same; and the same method shall be pursued in respect to each of the ballots in the ballot box. The ends of the string upon which the ballots have been strung shall then be securely knotted together, united, and sealed under the official signatures and seals of the judges and clerks who counted it. The blank seals of the judges and clerks shall be supplied in the first instance by the Secretary of State, and by the county clerk later, in suitable quantities along with the other election supplies. They shall be made of paper, kind, quality, etc., known to the trade as flat writing paper, white manila, sixteen-pound folio, cut into sizes for each seal of about five and one half inches by seven inches. On one side they shall be well coated over the whole surface with a good quality of fish glue. On the opposite shall be printed the following, so arranged that the signatures of the judges and clerks of election shall be in the middle portion of the seal, to wit:

FORM.

NOTE.—It is a felony to forge or alter this seal, or for any person to break this seal contrary to law.

Official seal of the board of judges and clerks of election precinct No., Board No.

_____, Chairman.
 _____, Judge.
 _____, Judge.
 _____, First Clerk.
 _____, Second Clerk.
 _____, Third Clerk.

In the county of, Oregon, held on the day of, 19...

NOTE.—The judges and clerks are not to sign this seal until just before using the same, and all blank seals not used by judges shall be destroyed by fire as soon as the returns are completely sealed.

[L. 1891, p. 15, § 23; H. C. p. 1181; L. 1901, p. 356, § 10.]

§ 2784. Form of Tally Sheet—Tally, How Made and Certified.

The following shall be the form of the tally sheets kept by the judges and clerks of the election under this act:

TALLY SHEET OF THE ELECTION HELD AT PRECINCT, IN
 THE COUNTY OF, ON THE DAY
 OF, IN THE YEAR OF 19...

Containing the number and name of each person voted for, the particular office each person was voted for, the total number of votes cast for each candidate.

The tally or count, as it is kept by each of the clerks, shall be audibly announced as it proceeds, and it shall be kept in the manner and form as follows:

No.	Name of candidate.	Office.	Total vote received.	No.	Tally 5.	No.	Tally 10.	No.	Tally 15.
12				12		12		12	
13				13		13		13	
14				14		14		14	

The columns for the numbers 12, 13, 14, etc., shall not be over three eighths of an inch wide. The columns of the tallies shall be three eighths of an inch wide; the lines shall be three eighths of an inch apart; every ten lines the captions of the columns shall be reprinted between double-ruled lines in bold-faced small pica, and all the figures shall be printed in bold-faced small pica. The tally sheets shall conclude with the following form of certificate:

We hereby certify that at the above election and polling place each of the foregoing named persons received the number of votes set opposite his name, as above set forth, for the nomination for the office specified.

_____, Clerk.
 (Who kept this sheet.)
 _____, Chairman.
 _____, Judge.
 _____, Judge.
 _____, Clerk.
 _____, Clerk.
 (Who kept the other sheets.)

During the counting of the ballots each clerk shall, with pen and ink, keep tally upon one of the above tally sheets, and shall total the number of tallies and write the total in ink immediately to the right of the last tallies for each candidate, and also in the columns headed "total vote," and shall prepare the certificate thereto above indicated; and immediately upon the completion of the count all the clerks shall sign the tally sheet, and each of them shall certify which sheet was kept by him; and the chairman and the judges, being satisfied of the correctness of the same, shall then sign all three of said tally sheets. The clerks shall then prepare a statement of that portion of all the tally sheets showing the number and name of each candidate and the office and total votes received by each in the precinct, and shall prepare the certificate thereto, which statement shall be signed by the judges and clerks to complete the count, and shall

be immediately posted in a conspicuous place on the outside of said polls, there to remain for ten days. When two boards of judges and clerks participate in the counting of the ballots, each board shall keep and certify its own separate tally sheets. When one board is relieved by the other board, the retiring board shall, before adjourning, total up the tallies representing the ballots so far counted for each candidate, and a memorandum of the total vote received by each candidate shall be noted on the tally sheet in ink, immediately above the last tallies for each candidate, all done in ink, but in such a manner as not to render the tally sheet unfit for continuing the count upon the reconvening of the board. During the recess the chairman and second judge of the board shall each have the custody of one of the tally sheets, and the third sheet shall be deposited in the ballot box, all three sheets being kept sealed under the official seal of the board until the board reconvenes. When it is seen which board will have to complete the count, the outgoing board shall complete the addition and certifications upon its tally sheets, and deliver two sets of its tally sheets to the chairman of the board which is to complete the count of the ballot. The third tally sheet shall be sealed under the official seal of the board, indorsed on the outside to identify it, and retained by the chairman of the board which made and certified it, to be kept by him safely, subject to the control of the proper court. [L. 1891, p. 16, § 24; H. C. p. 1181; L. 1901, p. 357, § 11.]

§ 2785. Ballot Boxes, Tally Sheets, and Ballots, Provisions Concerning.

Immediately after canvassing the votes in the manner aforesaid, the judges and clerks to complete the count, before they separate or adjourn, shall inclose the poll books in separate covers and securely seal the same. They shall also inclose the tally sheets in separate envelopes and seal the same securely. They shall also envelope all the ballots strung on strings, as aforesaid, and seal the same securely; and they shall, in writing, with pen and ink, specify the contents, and address each of said packages upon the outside thereof to the county clerk of the county in which the election precinct is situated. When two boards participate in counting the ballots, each board, before taking its recess, shall knot the ends of the string upon which the ballots which it has counted are strung, and seal the knotted ends under the official seal of the board upon the back of the uppermost ballot. They shall then envelope the bunch of ballots and securely seal the package under their official seal, and leave the same with the ballot boxes until the count is completed. These sealed packages

of counted ballots shall be marked on the outside, showing what numbers are contained therein, but, once sealed, they are not to be opened by any one until so ordered by the proper court. When the count is completed, the ballots, counted and sealed, and enveloped and marked for identification, as aforesaid, shall be packed in the two ballot boxes, and nothing else shall be put into the boxes. The boxes shall then be locked, and the official seal of the board which finally completed the count shall be pasted over the keyhole and over the rim of the lid of the box, so that the box can not be opened without breaking the seal. Thereafter neither the county clerk nor the canvassers making abstracts of the votes shall break the said seals on the ballot boxes, nor shall any one break the seals on the boxes or the ballots, except upon the order of the proper court in case of contest, or upon the order of the county court when the boxes are needed for the next election. [L. 1891, p. 17, § 25; H. C. p. 1182; L. 1901, p. 360, § 12.]

§ 2786. Custody of Tally Sheets and Poll Books.

One complete set of the tally sheets and the poll book which was kept by the second clerk, ballots and stubs, ballot boxes and remaining supplies, shall be forthwith conveyed by one of the judges or clerks of the election, to be agreed upon for that purpose by the judges, to the county clerk of the county. The remaining complete set of the tally sheets and poll book, inclosed in an envelope and cover, and sealed securely as aforesaid, addressed and indorsed on the outside so that the same can be identified, shall be forthwith deposited with one of the judges, not of the same political party as the judge or clerk who conveys the duplicates to the county clerk, to be kept by him safely, subject to the control of the proper court. When two boards have been engaged in counting the ballots, the judges completing the count shall attach two sets of tally sheets together, and transmit and deposit the completed sets. The chairman of each board shall keep the third tally sheet of his own board, sealed and indorsed on the outside so that the same can be identified, in his possession, subject to the control of the proper court. [L. 1891, p. 17, § 26; H. C. p. 1182; L. 1901, p. 361, § 13.]

§ 2787. Only White Ballots Counted.

In the canvass of the votes only white ballots furnished under the provisions of this act shall be counted, and any ballot from which it is impossible to determine the elector's choice for any of the offices shall be void and shall not be counted. [L. 1891, p. 17, § 27; H. C. p. 1183.]

§ 2788. Rejected Ballots.

The judges shall carefully envelope all ballots cast which are rejected or defective, and not counted for any office, and seal the same securely and address the same to the county clerk, and indorse the same so that they may be identified, and shall transmit the same along with the other ballots to the county clerk, as aforesaid. The chairman shall write with pen and ink upon the back of every such ballot, immediately after the same is discovered, the words "wholly defective," and sign his initials thereto. [L. 1891, p. 17, § 28; H. C. p. 1183.]

§ 2789. Partially Defective Ballots.

Any ballot from which it is possible to determine the elector's choice for a part of the offices shall be counted for such part, but the remainder of the ballot from which it is impossible to determine the elector's choice shall be void as to such defective part, and such defective part shall not be counted. The judges shall disregard misspelling or abbreviations of the names of candidates for office if it can be ascertained from such ballot for whom it was intended. Every such ballot not counted for any party shall be immediately indorsed on the back thereof with pen and ink by the chairman, "Not counted for ——" (stating what office or offices), who shall sign his initials thereto. [L. 1891, p. 17, § 29; H. C. p. 1183.]

§ 2790. Ballots in Wrong Box.

In the canvass of votes all ballots found in the box marked "State and District," which are marked "State," as provided in section 61 of this act, shall be considered and counted only for such state offices as are to be filled at the election, and all ballots so marked "State and District," as provided in said section 61, shall be considered and counted only for such state and district offices as are to be filled at the election, and the names of persons thereon for other than state or district offices shall not be considered or counted. [L. 1891, p. 18, § 30; H. C. p. 1184.]

CHAPTER III.**OF BALLOTS.****§ 2809. Official Ballot—Arrangement of Candidates' Names—Form of.**

The ballot shall be styled "Official Ballot"; shall state the number or name of the precinct and county they are intended for, and the date when the election is to be held; shall contain the names of all the candidates for offices to be filled at that election whose nomina-

tions have been duly made and accepted as herein provided, and who have not died or withdrawn, and shall contain no other names of persons except that in the case of electors of president and vice president of the United States, the names of the candidates for president and vice president may be added to the party or political designation; the name of each person nominated shall be printed upon the ballot in but one place, without regard to how many times he may have been nominated, but there shall be added opposite thereto the party or political designation, expressed in not more than three words for any one party, as specified in each of the certificates of nomination nominating him for the office, and which he has accepted. The names of the candidates for each office shall be arranged under the designation of the office, in alphabetical order, according to surnames, except that the names of candidates for the offices of electors of president and vice president and for the senate and house of representatives shall be arranged in groups, as presented in the several certificates of nomination. There shall be left at the end of the list of candidates for each different office blank spaces, in which the elector may write the name of any person not printed on the ballot for whom he desires to vote as candidate for such office. On the left margin of the ballots the name of the uppermost candidate as printed shall be numbered twelve, the next candidate thirteen, the next fourteen, and so on consecutively to the end of the ballot. The blank lines shall not be numbered. Whenever the approval of a constitutional amendment or other question is submitted to the vote of the people, such questions shall be printed upon the ballot after the list of candidates, and each answer shall be numbered on the left margin, as in the case of names of candidates. Each ballot shall have along the top thereof a stub one and one half inches wide, perforated along the lower edge thereof; on the left half of the stub shall be printed the words, "Stub to be torn off by the chairman," and on the right half, "Stub to be torn off by the first clerk." The colored or sample ballots need not be perforated. Immediately below the perforated line shall be printed, in capitals, these words, "Official ballot for ——— Precinct. ——— County, June ———, 19——." Under this caption shall be printed, in bold-faced type, the words, "Mark between the number and name of each candidate or answer voted for." Below this shall be printed in the manner aforesaid—(1) the candidates for state offices; (2) for district and county offices; (3) for precinct offices; (4) for other offices or constitutional amendment or questions submitted to a vote of the people. The ballot shall be printed so as to give each elector a clear opportunity to designate his

choice of candidates and his answer to the questions submitted by making a mark to the left of the name of the candidate he wishes to vote for for each office, or to the left of the answer he wishes to make to each question submitted; and on the ballot may be printed such words as will aid the elector to do this, as, "Vote for one," "Vote for three," "Yes," "No," and the like. The ballot shall be of sufficient length and width to permit this to be properly done. The white ballot shall be arranged and printed in substantially the following form:

STUB

TO BE TORN OFF BY THE CHAISEMAN.

STUB

TO BE TORN OFF BY THE FIRST CLERK.

OFFICIAL BALLOT

—FOR—

SOUTH PORTLAND PRECINCT, MULTNOMAH COUNTY, JUNE 2, 1890.

Mark between the number and name of each candidate or answer voted for.

STATE

<i>For Congress</i>	<i>Vote for ONE</i>	<i>For State Treasurer</i>	<i>Vote for ONE</i>
12 J. A. Bruce, of Benton County	Union	20 Phil Metschan, of Grant County	Republican
13 Binger Hermann, of Douglas County	Republican	21 E. F. Walker, of Jackson County	Union
14 R. A. Miller, of Jackson County	Democratic	22 Geo. W. Webb, of Umatilla County	Democratic
<i>For Governor</i>	<i>Vote for ONE</i>	<i>For Supreme Judge</i>	<i>Vote for ONE</i>
15 W. P. Lord, of Marion County	Republican	23 Robert S. Bean, of Lane County	Republican
16 William Galloway, of Yamhill County	Democratic	24 B. F. Bonham, of Marion County	Democratic

<i>For Secretary of State</i>	<i>Vote for ONE</i>	<i>For Superintendent of Public Instruction</i>	<i>Vote for ONE</i>
17 Geo. W. McBride, of Columbia County.....	Republican	25 T. O. Jory, of Marion County.....	Union
18 Nathan Pierce, of Umatilla County.....	Union	26 A. Leroy, of Linn County.....	Democratic
19 Wm. M. Townsend, of Lake County.....	Democratic	27 E. B. McElroy, of Benton County.....	Republican
		<i>For State Printer</i>	<i>Vote for ONE</i>
		28 Frank C. Baker, of Multnomah County.....	Republican
		29 John O'Brien, of Multnomah County.....	Union

COUNTY

<i>For Prosecuting Attorney</i>	<i>Vote for ONE</i>	<i>For Clerk of Circuit Court</i>	<i>Vote for ONE</i>
30 D. R. Murphy, of Multnomah County.....	Democratic	56 John R. Duff, of Multnomah County.....	Republican
31 T. A. Stevens, of Multnomah County.....	Republican	57 J. A. Newell, of Multnomah County.....	Democratic
		<i>For Clerk of County Court</i>	<i>Vote for ONE</i>
32 John Catlin, of Multnomah County.....	Democratic-Union	58 C. E. Oliver, of Multnomah County.....	Democratic
33 P. L. Welter, of Multnomah County.....	Republican	59 T. O. Powell, of Multnomah County.....	Republican-Union

<i>For Representative</i>	<i>Vote for NINE</i>	<i>For Recorder of Conveyances</i>	<i>Vote for ONE</i>
34 C. Bomberger, of Multnomah County		60 W. L. Dudley, of Multnomah County	Republican
35 O. F. Botkin, of Multnomah County		61 Henry Gray, of Multnomah County	Democratic
36 C. W. Durkee, of Multnomah County			
37 J. C. Flanders, of Multnomah County		<i>For Treasurer</i>	<i>Vote for ONE</i>
38 John H. Hall, of Multnomah County		62 N. S. Dygert, of Multnomah County	Union
39 E. J. Haight, of Multnomah County		63 C. A. Freeman, of Multnomah County	Democratic
40 J. W. Holman, of Multnomah County		64 S. B. Willey, of Multnomah County	Republican
41 J. J. Kelley, of Multnomah County			
42 Silas G. Kelley, of Multnomah County			
43 A. A. Miller, of Multnomah County		<i>For Assessor</i>	<i>Vote for ONE</i>
44 P. F. Morey, of Multnomah County		65 W. L. Brooks, of Multnomah County	Democratic
45 Wm. T. Muir, of Multnomah County		66 Geo. C. Sears, of Multnomah County	Republican
46 F. Opitz, of Multnomah County			
47 Geo. L. Story, of Multnomah County		<i>For School Superintendent</i>	<i>Vote for ONE</i>
48 J. T. Stewart, of Multnomah County		67 W. K. Smith, of Multnomah County	Democratic
49 Zera Snow, of Multnomah County		68 W. A. Wetzel, of Multnomah County	Republican
50 W. E. Thomas, of Multnomah County			
51 F. B. Welch, of Multnomah County		<i>For Surveyor</i>	<i>Vote for ONE</i>
		69 R. S. Greenleaf, of Multnomah County	Union

70	T. M. Hurlburt, of Multnomah County.....	Republican
<i>For Croner</i>		
71	Henry Hicks, of Multnomah County.....	Democratic
72	Geo. H. River, of Multnomah County.....	Republican
73	P. J. A. Semler, of Multnomah County.....	Union
<i>For County Judge</i>		
52	J. V. Beach, of Multnomah County.....	Democratic
53	J. O. Moreland, of Multnomah County.....	Republican
<i>For Sheriff</i>		
54	John Kiernan, of Multnomah County.....	Democratic
55	John Minto, of Multnomah County.....	Republican
<i>For County Commissioner</i>		
74	Cyrus Buckman, of Multnomah County.....	Union
75	Elijah Corbett, of Multnomah County.....	Democratic
76	H. S. Stone, of Multnomah County.....	Republican

SOUTH PORTLAND PRECINCT.

<i>For Justice of the Peace</i>		
77	Amos Seaman, of Multnomah County.....	Union
78	W. H. Wood, of Multnomah County.....	Republican
<i>For Constable</i>		
79	Sam Simmons, of Multnomah County.....	Union
80	Al Thomas, of Multnomah County.....	Republican

NOTE.—In the absence of an affirmative declaration in the statute that a ballot containing the name of a candidate in more than one place is void and shall not be counted, an error of the county clerk in printing the name of a candidate on the "Official Ballot" in two different groups of electors will not deprive the voter who casts such a ballot of the elective franchise, or the candidate for whom it is cast of the benefit of such vote: *Miller v. Penoyer*, 23 Or. 374, [L. 1891, p. 23, § 49; H. C. p. 1191; L. 1896, p. 68, § 1.]

§ 2810. Margin of White Ballots—Difference Between, and Sample Ballots.

There shall be provided and furnished for each election precinct not less than two white ballots for each vote cast in such election precinct at the general election next preceding, and a like number of the colored or sample ballots. The colored or sample ballots shall be duplicate impressions of the white ballots, but without perforated stubs, but in printing the white ballots the printer shall, every one hundred sheets, shift either the paper guides or the form so there will be a difference of not less than twelve points nor more than seventy-two points, or about one inch, in the margin of the white ballots between the different hundred of sheets; and none of the white ballots shall have the same margin, either at the top or sides or bottom, as the colored ballots have, or nearer thereto than twelve points. These colored or sample ballots shall be furnished as soon as printed, at any time before the election, by the respective county clerks, in reasonable quantities, to all electors applying for the same; and on the day of the election, under the direction and control of the judges at each polling place, the sample ballots shall be given in reasonable and proper quantities to all electors applying for them. [L. 1891, p. 24, § 50; H. C. p. 1193; L. 1901, p. 364, § 20.]

§ 2811. Vacancy After Printing Ballots.

When any vacancy occurs by death or withdrawal aforesaid, and after the printing of the ballots any person or persons are nominated, as aforesaid, to fill such vacancy, the county clerk shall, a sufficient time before the election, cause to be prepared and printed, according to law, upon cards of instruction, arranged in the manner herein required for the ballots, the names and information concerning such candidates so nominated to fill such vacancies caused by death or withdrawal; one of such cards, certified by the county clerk, shall be posted and kept posted in plain view in each compartment or place provided for preparing the ballots in each polling place, and the same shall be posted in the county clerk's office from the time the same is prepared until after the election. [L. 1891, p. 25, § 51; H. C. p. 1193.]

§ 2812. Cancellation of Names on Printed Ballots.

It shall be the duty of the county clerk of each county to cause the name of each nominee who has thus withdrawn or died to be canceled upon the white ballots, and also the colored ballots, before they are given out to the electors. If said ballots have been already forwarded to the several election precincts, the county clerks shall;

if there is time, certify the matter to the judges of the several election precincts, and then it shall be the duty of the judges of such election precincts, in accordance with such certification, to see that the name of each candidate who has thus withdrawn or died is canceled upon the white and colored ballots before they are given out to the electors, and also that such cards of instruction, or lists of the candidates nominated to fill such vacancy, are duly posted in each compartment or place provided for preparing the ballots, before the ballots are given out to the electors. [L. 1891, p. 25, § 52; H. C. p. 1193.]

§ 2813. A Large and Small Ballot Box for Each Precinct.

It shall be the duty of the county clerk of each county to provide for each election precinct within such county one large and one smaller ballot box, the larger one of which shall be used for the reception of all general ballots deposited, and the smaller one for all ballots cast only for state or district offices. Said larger boxes shall be marked "general," and the smaller, "state and district," respectively. Each of such ballot boxes shall be provided with a lid fastened with hinges and a good lock and key. The lid shall form the top of the box, and contain an opening or slot five inches long and one quarter of an inch wide for the reception of ballots. All ballots cast by electors entitled to vote for all the offices to be elected at the election shall be deposited in the box marked "general." All ballots cast by electors qualified only to vote for state or state and district offices shall be deposited in the box marked "state and district." [L. 1891, p. 25, § 53; H. C. p. 1194.]

§ 2814. Election Supplies Furnished.

A sufficient time, and not less than five days, before the opening of the polls at any election provided for in this act, the county clerk of each county in which the election is to be held shall deliver to the sheriff of the county for use at each polling place in the county,—

1. The proper number of ballots required for such polling place, prepared and printed as provided in this act.
2. The two ballot boxes required by this act.
3. Two poll books, required by this act.
4. One copy of the election laws of this State, required by this act.
5. A sufficient number of tally sheets, required by this act.
6. A sufficient quantity of pens, ink, blotting pads, indelible copying pencils, needles and string for stringing ballots and stubs, sealing wax, and the like, necessary and convenient for carrying out the provisions of this act.

The white ballots so furnished shall be in a package by themselves, and the package shall be marked on the outside "white ballots," with the number contained in the package, and the package shall be addressed to the judges of the polling place for which it is intended, and the package shall be certified by the clerk and sealed under the seal of the county court of the county. The colored or sample ballots shall likewise be in a separate package by themselves, and the package shall be marked on the outside "colored or sample ballots," with the number contained in the package, certified, addressed, and sealed. The poll books, tally sheets, and copy of election laws shall likewise be done up in a package, addressed, and sealed. The other articles shall likewise be addressed. The county clerk shall keep a record of the addresses thereon, the contents of the packages, and the number thereof. [L. 1891, p. 26, § 54; H. C. p. 1194.]

§ 2815. Sheriff to Receipt for Supplies.

The county clerk shall prepare a receipt in duplicate for each polling place, enumerating the packages, and stating the time and day and date when the same were delivered by him to the sheriff. The sheriff shall sign both of said receipts, upon receipt of the packages; one of the receipts shall be retained by the clerk, and the other shall be delivered to the sheriff, and upon receipt of the packages, the judge or judges of election to whom they are delivered shall countersign said receipt, and the same shall forthwith be returned by the sheriff and filed with said clerk. [L. 1891, p. 26, § 55; H. C. p. 1194a.]

CHAPTER IV.

OF POLLING PLACES, AND PROVISIONS FOR VOTING.

§ 2816. Polling Places—Arrangement and Provisions For.

The sheriff of each county, under the direction and control of the county court of the county, a sufficient time and not less than one day before every election provided for in this act, shall secure the use of and take possession of the places designated by the county court as the polling places in the several precincts in the county; he shall cause the same to be suitably provided with a guard rail so constructed and placed that only such persons as are inside said rail can approach within six feet of the ballot boxes, or within ten feet of the compartments, shelves, or tables at which electors are to prepare their ballots for voting. He shall furnish in the manner directed by such county court, a sufficient number of such compartments, shelves, or tables in or at which electors may conveniently prepare

their ballots for voting, so that in the preparation thereof each elector may be screened from the observation of other persons. The arrangement shall be such that neither the ballot boxes or the compartments, shelves, or tables, or the electors while preparing their ballots, shall be hidden from view of those just outside the said guard rail, or from the judges; and yet the same shall be far enough removed and so arranged that the elector may conveniently prepare his ballot for voting with absolute secrecy. There shall be provided in each polling place not less than one such compartment, shelf, or table for every forty electors to vote at such polling place, and every polling place shall have at least three of such compartments, shelves, or tables. [L. 1891, p. 26, § 56; H. C. p. 1194b.]

§ 2817. Judges and Clerks—How Seated—Candidates and Agents May be Present.

The sheriff shall likewise arrange in or near by each polling place tables and chairs, with lights and fire, if needed, for the use of the judges and clerks in counting the ballots. The tables and chairs shall be arranged so that the chairman and second judge shall sit on one side of the table, with the ballot boxes on top of the table in front of them. Two of the clerks shall sit on the opposite side of the table facing the chairman and second judge. The third clerk shall sit at the end of the table to the left of the chairman. The third judge shall sit at the other end of the table to the right of the second judge. The sheriff shall arrange a stout guard rail two feet six inches from the outer sides of the said table, and just back of the so arranged chairs of the judges and clerks, so that the guard rail will entirely inclose the board of judges and clerks when seated as aforesaid, and shall serve to keep the bystanders off from the table, and yet not prevent them overlooking the judges and clerks to see that they read and tally the ballots correctly. The candidates, and their agents duly appointed as provided in section 2778, are hereby declared and entitled to be present in the room where the ballot boxes are from the time of opening of the polls until the conclusion of the count, and the returns are certified and sealed. During the time for voting no person other than the judges and clerks of election, and the electors admitted as herein provided for the purpose of preparing their ballot and voting, shall be admitted or permitted to be within the guard rail provided for in section 2816. During the time for counting the ballots no person other than the judges and clerks, and candidates, and their agents duly appointed as provided in section 2778, shall be allowed to be present where the ballot boxes are

and where the count is being conducted; and until after the count is fully completed and the returns certified, signed, and sealed, they shall not be admitted or permitted to be inside of the guard rail provided for in this section. [L. 1891, p. 27, § 57; H. C. p. 1194c; L. 1901, p. 365, § 21.]

§ 2818. Entry of Voter's Name and Delivery of Ballots.

Any person desiring to vote shall give his name and his residence to the first of the election clerks, which clerk shall not be of the same political party as the chairman, who shall thereupon announce the name and residence distinctly, and write in the poll book kept by him, the name and residence of the elector and the word "state" or "state and district," if he is qualified to vote for such officers only, and also write the name and residence of the elector, and if proper, the word "state" or "state and district" with pen and ink upon the back of one of the stubs upon one of the white ballots provided under this act; the clerk shall then with pen and ink write the number of the elector upon the back of each of the two stubs upon said ballot; he shall so number the stubs upon each ballot to correspond with the number of the elector in the poll book, beginning with number one for the first elector applying to vote, number two for the second elector, and so on, and he shall then tear off the stub upon which he wrote the elector's name. The clerk shall then deliver the ballot, with the remaining stub still attached thereto, to the elector. The said clerk shall give the elector one of said white ballots, and one only. The clerk shall then, at once and before issuing another ballot, deliver the stub containing the name and number of the elector to the judges, who shall pass it to the second clerk, who shall immediately enter the number in the poll book and the name and residence of the elector opposite thereto, and shall retain the stub in his possession. [L. 1891, p. 27, § 58; H. C. p. 1194c.]

§ 2819. Ballot, How Prepared by Voter—Delivery to Chairman.

On receipt of his white ballot as aforesaid, the elector shall forthwith, and without leaving the inclosed space, retire alone to one of the compartments or places provided, and shall there prepare his ballot, by marking immediately to the left of the name of the candidate of his choice for each office to be filled, or by writing in the name of the person he wishes to vote for; and in case of a constitutional amendment or other question submitted to the vote of the people, by marking immediately to the left the answer he desires to make, which shall be done with an indelible "copying" pencil. Be-

fore leaving the compartment or place provided, the elector shall fold his ballot so that the face thereof shall be concealed, without displaying the ballot or informing any person how he has prepared it; and he shall fold the ballot so that the remaining stub may be readily torn off without exposing the contents of the ballot or the marks or crosses thereon. He shall then deliver the ballot to the chairman, and state his name and residence. [L. 1891, p. 28, § 59; H. C. p. 1194c; L. 1895, p. 86; L. 1901, p. 366, § 22.]

§ 2820. Manner of Voting.

Immediately upon receiving the ballot from the elector, the chairman shall repeat the name and residence distinctly, and shall remove the remaining half of the stub from the ballot without exposing the contents of the ballot or the marks or crosses thereon, and pass the stub to the second clerk, who shall compare it with its counterpart, and observe that the name written on the counterpart corresponds with the name given by the person voting. If no objection is made to the elector, and the judges are satisfied that the elector is legally qualified, according to the constitution and laws of the State, to vote for all offices to be filled at that election, and that the ballot presented is the identical white ballot received by the elector as aforesaid from the first clerk, the chairman shall immediately put the ballot in the box marked "general," without any one inspecting or seeing the names written or printed or the crosses or marks upon the ballot, and without unfolding the same; and the second clerk shall enter opposite the name and number of the elector in the poll book the word "voted," or letter "V," to indicate the same. [L. 1891, p. 28, § 60; H. C. p. 1194d.]

§ 2821. Voting for State, or State and District, Officers.

If a majority of the judges are satisfied the elector is legally qualified to vote in that precinct only for "state" officers, the chairman shall immediately write with pen and ink upon the back of the ballot the word "state" and sign his (the chairman's) initials thereto; if the elector is qualified to vote for district officers also, the chairman shall write as aforesaid the words "state and district"; in either such case the ballot shall then be deposited in the box marked "state and district," and the clerks shall add to the name of the elector upon the poll books the words "state" or "state and district," as the case may be. The elector shall then immediately pass out by the way indicated by the judges. [L. 1891, p. 29, § 61; H. C. p. 1194d.]

There is no presumption that a person was not a resident of a precinct where he voted because he did not vote for precinct officers, and his ballot was indorsed "state, county, and district": *Van Winkle v. Crabtree*, 34 Or. 478, 55 Pac. 831.

§ 2822. Spoiling and Reissue of Ballots.

If any elector by accident or mistake spoils his ballot so that he can not conveniently vote the same, he may, on returning said spoiled ballot, receive another in place thereof. If the elector spoils three such ballots, it shall be conclusive evidence that the elector is unable to prepare his ballot without assistance, and he shall request the assistance of two of the judges to prepare one for him. When the elector spoils a ballot and returns the same to the first clerk, the clerk shall write upon the stub the word "spoiled," and sign his initials and remove the stub from the ballot, and immediately pass the stub to the judges, and he shall then immediately destroy the spoiled ballot, without any one inspecting its contents, and issue another to the elector as in the first instance, affixing the same name and number to the stubs as the original ballot. [L. 1891, p. 29, § 62; H. C. p. 1194e.]

§ 2823. Destruction of Unused Official Ballots.

No person shall take or remove any white ballot from the polling place, and immediately upon the closing of the polls the judges shall cause all the white ballots remaining unused to be immediately destroyed by tearing them in pieces or by burning them. [L. 1891, p. 29, § 63; H. C. p. 1194e.]

§ 2824. Preservation of Stubs.

As fast as electors vote, as aforesaid, the second clerk shall string the mated stubs upon a strong thread, and immediately upon the closing of the polls he shall securely knot together the ends of the thread and carefully preserve the same. [L. 1891, p. 29, § 64; H. C. p. 1194f.]

§ 2825. But One Person in Booth at One Time.

Not more than one person at one time shall be permitted to occupy any one compartment or place provided for electors to prepare their ballots, and no person shall remain in or occupy such compartment longer than may be reasonably necessary to prepare his ballot. Every elector who does not vote any ballot delivered to him shall, before leaving the polling place, return such ballot to the first clerk, who shall write upon the stub thereon "not voted," and sign his initials and treat the stub and ballot in the same manner as in the case of a spoiled ballot, and both clerks shall note the fact upon the poll books by drawing a line with pen and ink across the name of the person and writing the words "not voted." [L. 1891, p. 29, § 65; H. C. p. 1194f.]

§ 2826. Assistance in Marking Ballot.

Any elector who declares to the chairman that he can not read or write, or that by blindness or other physical disability he is unable to prepare his ballot, shall, upon request, receive the assistance of two of the judges in the preparation thereof, and such officers shall ascertain his wishes and prepare his ballot in accordance therewith, and such officers shall thereafter give no information regarding the same. The chairman may, in his discretion, require such declarations of disability to be made by the elector under oath. Whenever an elector receives assistance in this manner, the second clerk shall write upon the poll book opposite the name of the elector the word "assisted," and if sworn, also "sworn." In preparing his ballot any elector shall be at liberty to use or copy any colored or sample ballot, provided by this act, which he may choose to mark or to have had marked in advance, to assist him in marking the official ballot. [L. 1891, p. 30, § 66; H. C. p. 1194f.]

§ 2827. Giving Information as to Vote or Interfering With Voter—Penalty.

Any elector who shall use or bring into the polling place or carry away therefrom any unofficial ballot or any paper or thing bearing any resemblance to the official white ballot other than said colored or sample ballot, or anything which will show how he has prepared the white ballot, or any elector who shall, except as herein otherwise provided, allow his white ballot to be seen by any person with an apparent intention of letting it be known how he is about to vote, or mutilate his ballot, or place any distinguishing mark upon his ballot, whereby the same may be identified, or who shall make a false statement as to his inability to mark his ballot, or any person who shall interfere, or attempt to interfere, with any voter when inside said inclosed space, or when marking his ballot, or who shall endeavor to induce any voter to mark his ballot in a particular way, or before or after voting to show or explain how he marks or has marked his ballot, upon conviction shall be punished by a fine of not less than \$50 nor more than \$200. [L. 1891, p. 30, § 67; H. C. p. 1194g.]

A ballot on which an elector wrote in the space appropriated to candidates the name of a person for whom he desired to vote, such person not being a listed candidate, should not be rejected as bearing a distinguishing mark, notwithstanding it is possible that the name so written may afford a means of identifying the voter; but a ballot having a mark "O. K." written on the blank space beneath a set of candidates is void for this reason; so, one having the words "voted for" written after the name of one of the candidates, in addition to the required voting mark; so, a ballot having the names of all the candidates for a certain office marked out and then one of such names written in the blank space left for extra names, cannot be counted; nor could a ballot having a line drawn through the name of each candidate but one: *Van Winkle v. Crabtree*, 34 Or. 462, 55 Pac. 831.

§ 2828. Election Supplies Furnished by Secretary of State.

It shall be the duty of the Secretary of State, not less than six months before every biennial election in this State, to compile the election laws of the State and index the same, and cause the same to be printed in suitable pamphlet form, for the use of the judges of election; also suitable poll books, required by and in accordance with section 2782; also tally sheets, required by and in accordance with section 2784; also "register of nominations" books, required by section 2799; also receipts, required by and in accordance with section 2815; needles for stringing ballots and stubs, as required by sections 2783 and 2784, and indelible "copying" pencils, suitable for cancelling the names of candidates not voted for, as required by section 2819, and he shall forthwith proceed and distribute the same to the several county clerks in the State, in appropriate quantities. The bills for furnishing said pamphlet copies of the election laws, for ruling, printing, and binding such poll books, blanks, receipts, register of nominations, and tally sheets, and procuring said needles and pencils, and for preparing and delivering the same, as required by this act, shall be audited by the Secretary of State, and paid out of any moneys in the treasury not otherwise appropriated. [L. 1891, p. 30, § 68; H. C. p. 1194*g*.]

§ 2829. Penalty for Interfering With Secrecy of Ballot.

Any officer upon whom a duty is imposed by this act who shall disclose to any person the name of any candidate for whom any elector has voted, or give any information by which it can be ascertained for whom any elector has voted, or any judge or clerk of election or other officer about the polls who shall do any electioneering on election day, or any person who shall do any electioneering on election day within any polling place, or within fifty feet of any polling place, or any person who shall remove any white ballot from any polling place before the closing of the polls, or any person who shall knowingly apply for and receive any white ballot in any polling place other than that in which he is entitled to vote, or any person who shall show his ballot after it is marked to any person in such a way as to reveal the contents thereof, or the name of the candidate or candidates for whom he has marked his ballot, or any person (except the chairman of election) who shall receive from any voter the ballot prepared for voting, or any person who shall, contrary to this act, ask another at a polling place for whom he intends to vote, or who shall examine his ballot or solicit the voter to show the same, or any elector who shall knowingly receive any white ballot from any

other person than one of the election clerks, or any person who shall print or circulate or knowingly have in his possession any imitation of the official white or colored ballots, or any person, other than a clerk of the election, who shall deliver any white ballot to an elector, or any elector who shall deliver any ballot to the chairman to be voted except the one he received from the first election clerk, or any elector or any one who shall, contrary to the provisions of this act, place any mark upon or do anything to his or any white ballot by which it may be afterwards identified as the one voted by any particular individual, upon conviction shall be punished by a fine of not less than \$50 and not more than \$500, or by imprisonment in the county jail not less than three months nor more than one year, or both, in the discretion of the court. [L. 1891, p. 31, § 69; H. C. p. 1194*h*.]

See act to prevent coercion or intimidation of voters at public elections, *ante*, Vol. I, §§ 1905, 1906.

§ 2830. Penalty for Tampering With Ballots.

Any judge or clerk of election who shall wilfully disregard any of the provisions of this act, or who shall negligently fail to enforce any of the provisions of this act, or who shall, in the counting of the ballots or making the returns thereof, wilfully disregard any of the directions or requirements of this act, or any person who shall wilfully or fraudulently alter or destroy any white ballot cast at any election or any of the returns of any election regulated by this act, or who shall introduce among the genuine ballots a fraudulent ballot, or any person who shall falsely write the initials of the chairman or any writing upon the ballot or ballot stub purporting to be written by the clerk or chairman, or any person who shall steal any of the ballots or returns, or wilfully or fraudulently hinder or delay the delivery of any of the election returns to the county clerk, or wilfully break open any of such sealed returns of any election regulated by this act, upon conviction shall be punished by imprisonment in the penitentiary not less than one year nor more than three years, or by fine not less than \$500 nor more than \$2,000, or both such fine and imprisonment. [L. 1891, p. 31, § 70; H. C. p. 1194*i*.]

§ 2831. Mutilation of Election Papers.

Any person who shall, prior to or during an election, wilfully deface, tear down, remove, or destroy any list of candidates or other notice posted in accordance with the provisions of this act, or who, during an election, shall wilfully deface, tear down, remove, or destroy any card of instruction or specimen ballot posted under the provisions of this act for the instruction of voters, or who shall de-

face, tear down, remove, alter, or destroy any certificate of the result of the election posted under the provisions of this act, or who shall, during an election, wilfully remove or destroy any of the official white or sample ballots, supplies, or conveniences furnished to enable a voter to prepare his ballot, or who shall wilfully break the seals or open any of the sealed packages containing any of the supplies for the polling places contrary to the provisions of this act, upon conviction shall be punished by a fine of not less than \$50 nor more than \$500, or by imprisonment in the county jail not more than one year, or by both such fine and imprisonment, in the discretion of the court. [L. 1891, p. 32, § 71; H. C. p. 1194i.]

§ 2832. Names of Candidates for United States Senate to be Placed on Ballots.

At all general elections next preceding the election of a senator in Congress by the legislature of Oregon there shall be placed upon the official ballot by each of the county clerks and clerks of the county court the names of all candidates for the office of senator in Congress that have been nominatd in any of the methods now, or which may hereafter be, provided by law for the nomination of state officers of the State of Oregon, the votes for which candidates shall be counted and certified to by the election judges in the same manner as the votes for other candidates; and records of the vote for such candidates shall be made out and sworn to by the board of canvassers of each county of the State and returned to the Secretary of State, who shall transmit duplicate copies of such returns to the legislative assembly at its next ensuing session, one of which shall be addressed to the senate and the other to the house of representatives of the State of Oregon, one copy of which shall be delivered by him to the president of the senate and the other to the speaker of the house of representatives, after the organization of such bodies, which officers shall open and lay the same before the separate houses when assembled to elect a senator in Congress as now required by law of Congress; and it shall be the duty of each house to count the votes and announce the candidate for senator having the highest number, and thereupon the house shall proceed to the election of a senator as required by the act of Congress and the constitution of this State. [L. 1901, p. 143, § 1.]

§ 2838. Penalty for Official Misconduct.

If any judge or clerk of election, or any other person in any manner concerned in conducting the election, shall corruptly violate any of the provisions of this chapter, he shall forfeit and pay to the

county a sum not less than \$50 nor more than \$500, to be recovered by a civil action in the name of the county court of the proper county. In all elections in this State, the person having the highest number of votes for any office shall be deemed to have been elected. [L. 1870, p. 91, § 34; D. & L. p. 574, § 40; H. C. § 2543.]

CHAPTER VIII.

OF PRESIDENTIAL ELECTORS.

§ 2856. Election of Presidential Electors.

On the Tuesday next after the first Monday in November, 1864, and every four years thereafter, there shall be elected by the qualified electors of this State as many electors of president and vice president as this State may be entitled to elect of senators and representatives in Congress. [D. Cd. p. 846, § 1; D. & L. p. 578, § 58; H. C. § 2561.]

§ 2857. When to Convene—Vacancies—Duty of Electors.

The electors of president and vice president shall convene at the seat of government on the first Wednesday of December next after the election, at the hour of twelve of the clock at noon of that day, and if there shall be any vacancy in the office of an elector, occasioned by death, refusal to act, neglect to attend, or otherwise, the electors present shall immediately proceed to fill by *viva voce* and plurality of votes, such vacancy in the electoral college, and when all electors shall appear, or the vacancies, if any, shall have been filled as above provided, such electors shall proceed to perform the duties required of them by the constitution and laws of the United States. [D. Cd. p. 849, § 2; D. & L. p. 578, § 59; H. C. § 2562.]

§ 2858. Canvass of Votes.

The votes for the electors shall be given, received, returned, and canvassed as the same are given, returned, and canvassed for members of Congress. The Secretary of State shall prepare two lists of the names of the electors elected, and affix the seal of the State to the same. Such lists shall be signed by the Governor and Secretary, and by the latter delivered to the college of electors at the hour of their meeting on such first Wednesday of December. [D. Cd. p. 849, § 3; D. & L. p. 578, § 60; H. C. § 2563.]

§ 2859. Compensation of Electors.

Every such elector who shall attend at the time and place appointed, and give his vote for president and vice president, shall be entitled

to receive from this State \$3 for each day's attendance at such election, and \$3 for every twenty miles' travel in going to and returning from the place where the electors shall meet, on the usually traveled route. [D. Cd. p. 849, § 4; D. & L. p. 578, § 61; H. C. § 2564.]

CHAPTER V.

OF OFFENSES AGAINST THE SUFFRAGE.

§ 1900. **Bribing or Offering to Bribe Voter.**

If any person shall give, offer, or promise to give any gift, gratuity, valuable consideration, or thing whatever to any voter of this State, or shall promise to do or cause to be done any act beneficial to such voter, with intent to influence or induce such voter to vote at any legally authorized election in this State for or against a particular person or candidate, or in a particular way, such person, upon conviction thereof, shall be punished by imprisonment in the penitentiary not less than one year nor more than five years, or by imprisonment in the county jail not less than three months nor more than one year. [L. 1864; D. Cd. § 616; D. & L. § 627; H. C. § 1843.]

§ 1901. **Voter Receiving Bribe or Promise of the Same.**

If any voter of this State shall accept any gift, gratuity, valuable consideration, or thing, or any promise thereof, or any promise to do, or cause to be done, any act beneficial to such voter, with the understanding or agreement, express or implied, that such voter will, at any legally authorized election in this State, give his vote for or against a particular person or candidate, or in a particular way, such voter, upon conviction thereof, shall be punished by imprisonment in the penitentiary not less than one year nor more than five years, or by imprisonment in the county jail not less than three months nor more than one year. [L. 1864; D. Cd. § 617; D. & L. § 628; H. C. § 1844.]

§ 1902. **Voter—Definition of—Punishment for Second Crime.**

A person who actually votes, or offers to vote, at the election specified and designated in sections 1900 and 1901, although by law he may not be entitled to vote thereat, shall be held and deemed to be a voter within the meaning of such sections 1900 and 1901, and for the purposes therein expressed. If any person, having been convicted of any crime defined in sections 1900 and 1901, shall afterwards be convicted of the same or any other crime therein defined, such person shall be punished by imprisonment in the penitentiary as therein provided, and not otherwise. [L. 1864; D. Cd. § 618; D. & L. § 629; H. C. § 1845.]

§ 1903. Voting or Offering to Vote Illegally.

If any person shall vote, or offer to vote, at any legally authorized election in this State, knowing himself not entitled by law to vote thereat, or shall vote, or offer to vote, at any poll or in any precinct at any such election, knowing himself not entitled to vote at such poll or in such precinct, such person, upon conviction thereof, shall be punished by imprisonment in the county jail not less than three months nor more than one year, or by fine not less than \$100 nor more than \$500. [L. 1864; D. Cd. § 619; L. 1870, p. 85, § 19; D. & L. § 630; H. C. § 1846.]

§ 1904. Violence to Prevent Person from Voting, etc.—Punishment of.

If any person or persons shall by menace, threat, or violence, whether armed or unarmed, intimidate or prevent, or attempt to intimidate or prevent any person from challenging another voter, or to prevent any person from voting, such person or persons so offending shall, upon conviction, be punished by imprisonment in the county jail not less than three months nor more than one year. [L. 1870, p. 86, § 21; D. & L. § 631; H. C. § 1847.]

§ 1905. Intimidation of Voters by Corporations, etc.

Any person or corporation who directly or indirectly uses any force, violence, or restraint, or inflicts or threatens to inflict any injury, damage, harm, or loss, or in any other manner practices intimidation upon or against any person in his or its employ, in order to induce or compel such person to refrain from voting at any election, or to vote or to refrain from voting for or against any person or persons, or for or against any proposition submitted to the voters at such election, or to place or cause to be placed, or refrain from placing or causing to be placed, his name upon a registry of voters, or on account of any person having so voted or refrained from voting at such election, or having registered or refrained from registering as a voter; or by abduction, duress, or any forcible or fraudulent device or contrivance whatsoever impedes, prevents, or otherwise interferes with the free exercise of the elective franchise by any such employee; or compels, induces, or prevails upon any voter to give, or refrain from giving, his vote for or against any particular person or proposition at any election; or, being an employer, pays his employee the salary or wages due him in pay envelopes upon which there is written or printed any political motto, device, or arguments containing threat, expressed or implied, intended or calculated to influence the political opinions or actions of such employees; or within ninety days of a general election puts or otherwise exhibits in the establishment

or place where his employees are engaged in labor any handbill or placard containing any threat, notice, or information that if any particular ticket or candidate is elected or defeated, work in his place or establishment will cease, in whole or in part, his establishment be closed up or the wages of his employees reduced, or other threats, expressed or implied, intended or calculated to influence the political opinions or actions of his or its employee, is guilty of a misdemeanor. [L. 1901, p. 160, § 1.]

§ 1906. Penalty for Violating Last Section.

Any person or corporation found guilty of a violation of any of the provisions of the preceding section of this act shall be fined in a sum not less than \$100 nor more than \$1,000, and, if a corporation, shall, in addition, forfeit its charter. [L. 1901, p. 161, § 2.]

§ 1907. Importing Voters a Felony.

Any person who shall by promise of favor or reward, or otherwise, induce or persuade any person to come into this State, or into any county or precinct within this State, for the purpose and with the intent that such person shall, by so changing his habitation, vote at any general election which may hereafter be held in this State, at any place where such voter or person is not a *bona fide* resident, shall be deemed guilty of a felony, and upon conviction thereof shall be punished as hereinafter provided. [L. 1870, p. 22, § 1; D. & L. § 632; H. C. § 1848.]

§ 1908. Inducing Voters to Absent Themselves a Felony.

Any person shall also be deemed guilty of a felony who shall by promises of favor or reward, or otherwise, induce or persuade any voter within this State to absent himself from his actual and *bona fide* place of residence with intent to prevent or hinder such person from voting at such place of residence at any general election in this State. [L. 1870, p. 22, § 2; D. & L. § 633; H. C. § 1849.]

§ 1909. Inducing Voters to Stay Away from Polls a Felony.

Any person who shall, in the manner provided in the preceding section, induce or persuade any legal voter to remain away from the polls, and not vote at any general election in this State shall, on conviction, be deemed guilty of a felony. [L. 1870, p. 23, § 3; D. & L. § 634; H. C. § 1850.]

§ 1910. Penalty for Violating the Preceding Three Sections.

Any person upon conviction for a violation of either of the preceding sections shall be imprisoned in the penitentiary not less than

one nor more than three years, or shall be fined not less than \$100 nor more than \$1,000, or shall be punished by both such fine and imprisonment, in the discretion of the court, and shall be forever ineligible to hold any office of trust or profit in this State. [L. 1870, p. 23, § 4; D. & L. § 635; H. C. § 1851.]

§ 1911. Negligence or Corruption of Officers of Election.

If any judge or clerk of election, or other officer or person on whom any duty is enjoined by law relative to any election authorized by law, or to the return or canvassing of votes given at any such election, shall be guilty of any wilful neglect of such duty, or of any corrupt conduct in the discharge of the same, such judge, clerk, officer, or other person, upon conviction thereof, shall be punished by imprisonment in the penitentiary not less than one year nor more than three years, or by imprisonment in the county jail not less than three months nor more than one year, or by fine not less than \$100 nor more than \$500. [L. 1864; D. Cd. § 660; D. & L. § 675; H. C. § 1898.]

§ 1912. Disorderly Conduct at Polls.

If any person shall behave in a riotous, disorderly, or tumultuous manner at or in the immediate vicinity of any poll or place of voting during the progress of any election authorized by law, or shall wilfully and wrongfully disturb or interrupt the officers or either of them engaged in holding any such election, or any person being in such vicinity and voting or attempting or intending to vote thereat, such person, upon conviction thereof, shall be punished by imprisonment in the county jail not less than one month nor more than one year, or by fine not less than \$50 nor more than \$500. [L. 1864; D. Cd. § 661; D. & L. § 676; H. C. § 1899.]

§ 1975. Disposing of Liquor on Election Day—Penalty Therefor.

It shall be unlawful in this State for any person to barter, sell, give away, or in any manner dispose of any intoxicating liquor on the day of any general or special election of state, county, or municipal officers, within the state, district, county, or corporation in which such election is held. Any person violating the provisions of this act shall, upon conviction thereof, be punished by a fine of not less than \$25 nor more than \$200, or by imprisonment in the county jail not less than ten nor more than thirty days, or both, in the discretion of the court. [L. 1874, p. 72, §§ 1, 2; H. C. §§ 1910, 1911.]

§ 1976. Violations of Act to be Reported to Grand Jury—Fines, How Disposed of.

It is hereby made the duty of all magistrates, sheriffs, and constables to report to the grand jury all violations of the provisions of this act which may come to their knowledge in their respective counties; and all fines collected under this act shall be paid into and become a part of the common school fund of the county in which the same shall be collected. [L. 1874, p. 73, § 3; H. C. § 1912.]

(Chapter 171, Laws 1907.)

AN ACT

[H. B. 62.]

To amend section 1878 of the laws of Oregon as compiled by Charles B. Bellinger and William W. Cotton.

Be it enacted by the People of the State of Oregon:

Section 1. That section 1878 of the Codes and Statutes of the State of Oregon, as compiled and annotated by Charles B. Bellinger and William W. Cotton, be and the same is hereby amended so as to read as follows:

Sec. 1878. If any person shall corruptly give, offer, or promise to give any gift, gratuity, valuable consideration, or thing whatever, or shall corruptly promise to do or cause to be done any act beneficial to any judicial, legislative or executive officer, or shall intimidate or attempt to intimidate or shall threaten any injury to the person or property of such or any judicial, legislative or executive officer with intent to influence the vote, opinion, decision, judgment, or other official conduct of such officer in any matter, question, duty, cause or proceeding, which then is or by law may come or be brought before such officer, or with intent to influence such officer to act in his official capacity in a particular manner so as to produce or prevent any particular result, such person, upon conviction thereof, shall be punished by imprisonment in the penitentiary not less than one nor more than ten years, or by imprisonment in the county jail not less than one month nor more than one year, or by a fine of not less than one hundred (\$100) dollars nor more than one thousand (\$1,000) dollars.

Filed in the office of the Secretary of State, February 25, 1907.

(Chapter 195, Laws 1907.)

AN ACT

[H. B. 250.]

To provide for the making and signing of a permanent record of all elections and of the votes cast at such election, by the county boards of canvassers.

Be it enacted by the People of the State of Oregon:

Section 1. That the following section be enacted to be known as section 2833a of the Codes and Statutes of Oregon as compiled and annotated by Hons. C. B. Bellinger and W. W. Cotton, the same to read as follows:

Sec. 2833a. Upon the completion of the canvass of the votes by the county board of canvassers as provided in section 2833, the county clerk shall enter in a book to be kept for that purpose and known as the "Election Record," a complete summary of all the votes cast in his county for all offices and all candidates for such offices, and for all measures or questions voted upon at said election, and shall enter in said election record the declaration of the board of canvassers showing the final decision upon any office, measure or question, when such final decision is based upon the vote of the county; this record to be signed by the board of canvassers and attested by the seal of the county.

Filed in the office of the Secretary of State, February 25, 1907.

(Chapter 226, Laws 1907.)

AN ACT

[H. B. 123.]

To provide for carrying into effect the initiative and referendum powers reserved by the people in section 1 and section 1a of article IV of the Constitution of the State of Oregon on general, local, special, and municipal legislation; to regulate elections thereunder; to punish violations of this act; and to repeal an act entitled "An act making effective the initiative and referendum provisions of section 1 of article IV of the Constitution of the State of Oregon, and regulating elections thereunder, and providing penalties for violations of provisions of this act," approved by the Governor and filed in the office of the Secretary of State on the 24th day of February, 1903, and for carrying into effect amendment to section 2, article XI, of the Constitution, granting to cities and towns the right to enact or amend their charters.

Be it enacted by the People of the State of Oregon:

Section 1. The following shall be substantially the form of petition for the referendum to the people on any act passed by the legislative assembly of the State of Oregon, or by a city council:

WARNING.

It is a felony for anyone to sign any initiative or referendum petition with any name other than his own, or to knowingly sign his name more than once for the same measure, or to sign such petition when he is not a legal voter.

PETITION FOR REFERENDUM.

To the Honorable, Secretary of State for the State of Oregon (or to the Honorable, clerk, auditor, or recorder, as the case may be, of the city of):

We, the undersigned citizens and legal voters of the State of Oregon (and the district of, county of, or city of, as the case may be), respectfully order that the Senate (or House) Bill No., entitled (title of act, and if the petition is against less than the whole act then set forth here the part or parts on which the referendum is sought), passed by the legislative assembly of the State of Oregon, at the regular (special) session of said legislative assembly, shall be referred to the people of the State (district of, county of, or city of, as the case may be), for their approval or rejection, at the regular (special) election to be held on the day of, A. D., 19..., and each for himself says: I have personally signed this petition; I am a legal voter of the State of Oregon, and (district of, county of, city of, as the case may be); my residence and post office are correctly written after my name.

Name, Residence, Post-office
(If in a city, street and number.)

(Here follow twenty numbered lines for signatures.)

Section 2. The following shall be substantially the form of petition for any law, amendment to the constitution of the State of Oregon, city ordinance or amendment to a city charter, proposed by the initiative:

WARNING.

It is a felony for anyone to sign any initiative or referendum petition with any name other than his own, or to knowingly sign his name more than once for the measure, or to sign such petition when he is not a legal voter.

INITIATIVE PETITION.

To the Honorable, Secretary of State for the State of Oregon (or to the Honorable, clerk, auditor, or recorder, as the case may be, for the city of):

We, the undersigned citizens and legal voters of the State of Oregon (and of the district of, county of, or city of, as the case may be), respectfully demand that the following proposed law (or amendment to the Constitution, ordinance, or amendment to the city charter, as the case may be), shall be submitted to the legal voters of the State of Oregon (district of, county of, or city of, as the case may be), for their approval or rejection at the regular general election, or (regular or special city election), to be held on the day of, A. D., 19..., and each for himself says: I have person-

ally signed this petition; I am a legal voter of the State of Oregon (and of the district of, county of, city of as the case may be); my residence and post-office are correctly written after my name.

Name, Residence, Post-office
(If in a city, street and number.)

(Here follow twenty numbered lines for signatures.)

Every such sheet for petitioners' signatures shall be attached to a full and correct copy of the title and text of the measure so proposed by the initiative petition; but such petition may be filed with the Secretary of State in numbered sections for convenience in handling, and referendum petitions shall be attached to a full and correct copy of the measure on which the referendum is demanded and may be filed in numbered sections in like manner. Not more than twenty signatures on one sheet shall be counted. When any such initiative or referendum petition shall be offered for filing, the Secretary of State, in the presence of the Governor and the person offering the same for filing, shall detach the sheets containing the signatures and affidavits and cause them all to be attached to one or more printed copies of the measure so proposed by initiative or referendum petitions; *provided*, all petitions for the initiative and for the referendum and sheets for signatures shall be printed on pages seven inches in width by ten inches in length, with a margin of one and three-fourths inches at the top for binding; if the aforesaid sheets shall be too bulky for convenient binding in one volume, they may be bound in two or more volumes, those in each volume to be attached to a single printed copy of such measure; the detached copies of such measure shall be delivered to the person offering the same for filing. If any such measure shall, at the ensuing election, be approved by the people, then the copies thereof so preserved, with the sheets and signatures and affidavits, and a certified copy of the Governor's proclamation declaring the same to have been approved by the people, shall be bound together in such form that they may be conveniently identified and preserved. The Secretary of State shall cause every such measure so approved by the people to be printed with the general laws enacted by the next ensuing session of the legislative assembly, with the date of the Governor's proclamation declaring the same to have been approved by the people. This act shall not apply to the general laws governing the method of determining whether stock of any kind shall be permitted to run at large in any county or portion thereof, nor to the provisions of the local option liquor laws providing methods of determining whether the sale of intoxicating liquors shall be prohibited in any county, city, precinct, ward, or district.

STATE OF OREGON, }
County of } ss.

(Signature and post-office address of affiant.)

(Signature and title of officer before whom oath is made, and his post-office address.)

Section 4. If the Secretary of State shall refuse to accept and file any petition for the initiative or for the referendum any citizen may apply, within ten days after such refusal, to the circuit court for a writ of mandamus to compel him to do so. If it shall be decided by the court that such petition is legally sufficient, the Secretary of State shall then file it, with a certified copy of the judgment attached thereto, as of the date on which it was originally offered for filing in his office. On a showing that any petition filed is not legally sufficient, the court may enjoin the Secretary of State and all other officers from certifying or printing on the official ballot for the ensuing election the ballot title and numbers of such measure. All such suits shall be advanced on the court docket and heard and decided by the court as quickly as possible. Either party may appeal to the supreme court within ten days after a decision is rendered. The circuit court of Marion County shall have jurisdiction in all cases of measures to be submitted to the electors of the State at large; in cases of local and special measures, the circuit court of the county, or of one of the counties in which such measures are to be voted upon, shall have jurisdiction; in cases of municipal legislation, the circuit court of the county in which the city concerned is situated shall have jurisdiction.

Section 5. When any measure shall be filed with the Secretary of State to be referred to the people of the State, or of any county or district composed of one or more counties, either by the legislative assembly or by the referendum petition, and when any measure shall be proposed by initiative petition, the Secretary of State shall forthwith transmit to the Attorney-General of the State a copy thereof, and within ten days thereafter the Attorney-General shall provide and return to the Secretary of State a ballot title for said measure. The ballot title may be distinct from the legislative title of the measure, and shall express, in not exceeding one hundred words, the purpose of the measure. The ballot title shall be printed with the numbers of the measure, on the official ballot. In making such ballot title the Attorney-General shall, to the best of his ability, give a true and impartial statement of the purpose of the measure, and in such language that the ballot title shall not be intentionally an argument, or likely to create prejudice, either for or against the measure. Any person who is dissatisfied with the ballot title provided by the Attorney-General for any measure may appeal from his decision to the circuit court, as provided by section 4 of this act, by petition, praying for a different title and setting forth the reasons why the title prepared by the Attorney-General is insufficient or unfair. No appeal shall be allowed from the decision of the Attorney-General on a ballot title, unless the same is taken within ten days after said decision is filed. A copy of every such decision shall be served by the Secretary of State or the clerk of the court, upon the person offering or filing such initiative or referendum petition or appeal. Service of such decision may be by mail or telegraph, and shall be made forthwith. Said circuit court shall thereupon examine said measure, hear arguments, and in its decision thereon certify to the Secretary of State a ballot title for the measure in accord with the intent of this section. The decision of the circuit court shall be final. The Secretary of State shall print on the official ballot the title thus certified to him.

Section 6. The Secretary of State, at the time he furnishes to the county clerks of the several counties certified copies of the names of the candidates for state and district offices, shall furnish to each of said county clerks his certified copy of the ballot titles and numbers of the several measures to be voted upon at the ensuing general election, and he shall use for each measure the ballot title designated in the manner herein provided. Such ballot title shall in no case exceed one hundred words, and shall not resemble, so far as to probably create confusion, any such title previously filed for any measure to

be submitted at that election; he shall number such measures and such ballot titles shall be printed on the official ballot in the order in which the acts referred by the legislative assembly and petitions by the people shall be filed in his office. The affirmative of the first measure shall be numbered 300 and the negative 301 in numerals, and the succeeding measures shall be numbered consecutively 302, 303, 304, 305, and so on, at each election. It shall be the duty of the several county clerks to print said ballot titles and numbers upon the official ballot in the order presented to them by the Secretary of State and the relative position required by law. Measures referred by the legislative assembly shall be designated by the heading "Referred to the People by the Legislative Assembly"; measures referred by petition shall be designated "Referendum ordered by Petition of the People"; measures proposed by initiative petition shall be designated and distinguished on the ballot by the heading "Proposed by Initiative Petition."

Section 7. The manner of voting upon measures submitted to the people shall be the same as is now or may be required and provided by law; no measure shall be adopted unless it shall receive an affirmative majority of the total number of respective votes cast on such measure and entitled to be counted under the provisions of this act; that is to say, supposing seventy thousand ballots to be properly marked on any measure, it shall not be adopted unless it shall receive more than thirty-five thousand affirmative votes. If two or more conflicting laws shall be approved by the people at the same election, the law receiving the greatest number of affirmative votes shall be paramount in all particulars as to which there is a conflict, even though such law may not have received the greatest majority of affirmative votes. If two or more conflicting amendments to the constitution shall be approved by the people at the same election, the amendment which receives the greatest number of affirmative votes shall be paramount in all particulars as to which there is a conflict, even though such amendment may not have received the greatest majority of affirmative votes.

Section 8. Not later than the first Monday of the third month next before any regular general election, nor later than thirty days before any special election, at which any proposed law, part of an act, or amendment to the Constitution is to be submitted to the people, the Secretary of State shall cause to be printed in pamphlet form a true copy of the title and text of each measure to be submitted, with the number and form in which the ballot title thereof will be printed on the official ballot. The person, committee, or duly author-

ized officers of any organization filing any petition for the initiative, but no other person or organization, shall have the right to file with the Secretary of State for printing and distribution any argument advocating such measure; said argument shall be filed not later than the first Monday of the fourth month before the regular election at which the measure is to be voted upon. Any person, committee, or organization may file with the Secretary of State, for printing and distribution, any arguments they may desire, opposing any measure, not later than the fourth Monday of the fourth month immediately preceding such election. Arguments advocating or opposing any measures referred to the people by the legislative assembly, or by referendum petition, at a regular general election, shall be governed by the same rules as to time, but may be filed with the Secretary of State by any person, committee, or organization; in the case of measures submitted at a special election, all arguments in support of such measure at least sixty days before such election. But in every case the person or persons offering such arguments for printing and distribution shall pay to the Secretary of State sufficient money to pay all the expenses for paper and printing to supply one copy with every copy of the measure to be printed by the State; and he shall forthwith notify the persons offering the same of the amount of money necessary. The Secretary of State shall cause one copy of each of said arguments to be bound in the pamphlet copy of the measures to be submitted as herein provided, and all such measures and arguments to be submitted at one election shall be bound together in a single pamphlet. All the printing shall be done by the State, and the pages of said pamphlet shall be numbered consecutively from one to the end. The pages of said pamphlet shall be six by nine inches in size, and the printed matter thereon shall be set in eight point Roman-faced type, single leaded, and twenty-five ems in width, with appropriate heads, and printed on sized and super calendered paper twenty-five by thirty-eight inches, weighing fifty pounds to the ream. The title page of every measure bound in said pamphlet shall show its ballot title and ballot numbers. The title page of each argument shall show the measure or measures it favors or opposes and by what persons or organization it is issued. When such arguments are printed he shall pay the State Printer therefor from the money deposited with him and refund the surplus, if any, to the parties who paid it to him. The cost of printing, binding, and distributing the measures proposed, and of binding and distributing the arguments, shall be paid by the State as a part of the state printing, it being intended that only the cost of paper and printing the argu-

ments shall be paid by the parties presenting the same, and they shall not be charged any higher rate for such work than is paid by the State for similar work and paper. Not later than the fifty-fifth day before the regular general election at which such measures are to be voted upon, the Secretary of State shall transmit by mail, with postage fully prepaid, to every voter in the State whose address he may have, one copy of such pamphlet; *provided*, that if the Secretary shall, at or about the same time, be mailing any other pamphlet to every voter, he may, if practicable, bind the matter herein provided for in the first part of said pamphlet, numbering the pages of the entire pamphlet consecutively from one to the end, or he may enclose the pamphlets under one cover. In the case of a special election he shall mail said pamphlet to every voter not less than twenty days before said special election.

Section 9. The votes on measures and questions shall be counted, canvassed, and returned by the regular boards of judges, clerks and officers, as votes for candidates are counted, canvassed and returned, and the abstract made by the several county clerks of votes on measures shall be returned to the Secretary of State on separate abstract sheets, in the manner provided by section 2833 of Bellinger and Cotton's Annotated Codes and Statutes of Oregon, for abstracts of votes for state and county officers. It shall be the duty of the Secretary of State, in the presence of the Governor, to proceed within thirty days after the election, and sooner if the returns be all received, to canvass the votes given for each measure; and the Governor shall forthwith issue his proclamation, giving the whole number of votes cast in the State for and against each measure and question, and declaring such measures as are approved by majority of those voting thereon to be in full force and effect as the law of the State of Oregon from the date of said proclamation; *provided*, that if two or more measures shall be approved at said election which are known to conflict with each other or to contain conflicting provisions he shall also proclaim which is paramount in accordance with the provisions of section 7 of this act.

Section 10. In all cities and towns which have not or may not provide by ordinance or charter for the manner of exercising the initiative and referendum powers reserved by the constitution to the people thereof, as to their municipal legislation, the duties required of the Secretary of State by this act, as to state legislation, shall be performed as to such municipal legislation by the city auditor, clerk or recorder, as the case may be; the duties required of the Governor shall be performed by the mayor as to such municipal legislation,

and the duties required by this act of the Attorney-General shall be performed by the city attorney as to such municipal legislation. The provisions of this act shall apply in every city and town in all matters concerning the operation of the initiative and referendum in its municipal legislation, on which such city or town has not made or does not make conflicting provisions. The printing and binding of measures and arguments in municipal legislation shall be paid for by the city in like manner as payment is provided for by the State as to state legislation by section 8 of this act, and said printing shall be done in the same manner that other municipal printing is done; distribution of said pamphlets shall be made to every voter in the city, so far as possible, by the city clerk, auditor, or recorder, as the case may be, either by mail or carrier, not less than eight days before the election at which the measures are to be voted upon. Arguments supporting municipal measures shall be filed with the city clerk, auditor, or recorder, not less than thirty days before the election at which they are to be voted upon; opposing arguments shall be filed not less than twenty days before said election. It is intended to make the procedure in municipal legislation as nearly as practicable the same as the initiative and referendum procedure for measures relating to the people of the State at large.

Section 11. Referendum petitions against any ordinance, franchise, or resolution passed by a city council shall be signed by not less than ten per cent of the voters of said city, and said signatures shall be verified in the manner herein provided; the petition shall be filed with the city clerk, auditor, or recorder, as the case may be, within thirty days after the passage of such ordinance, resolutions or franchise. No city ordinance, resolution, or franchise shall take effect and become operative until thirty days after its passage by the council and approved by the mayor, unless the same shall be passed over his veto, and in that case it shall not take effect and become operative until thirty days after such final passage, except measures necessary for the immediate preservation of the peace, health or safety of the city; and no such emergency measure shall become immediately operative unless it shall state in a separate section the reasons why it is necessary that it should become immediately operative, and shall be approved by the affirmative vote of three fourths of all the members elected to the city council, taken by ayes and noes, and also approved by the mayor.

Section 12. If any ordinance, charter or amendment to the charter of any city shall be proposed by initiative petition, said petition shall be filed with the city clerk, auditor, or recorder, as the case may be,

and he shall transmit it to the next session of the city council. The council shall either ordain or reject the same, as proposed, within thirty days thereafter, and if the council shall reject said proposed ordinance or amendment, or shall take no action thereon, then the city clerk, auditor or recorder, as the case may be, shall submit the same to the voters of the city or town at the next ensuing election held therein not less than ninety days after the same was first presented to the city council. The council may ordain said ordinance or amendment and refer it to the people, or it may ordain such ordinance without referring it to the people, and in that case it shall be subject to referendum petition in like manner as other ordinances; if the council shall reject said ordinance or amendment, or take no action thereon, it may ordain a competing ordinance or amendment, which shall be submitted by the city clerk, auditor, or recorder, as the case may be, to the people of the said city or town, at the same election at which said initiative proposal is submitted. Such competing ordinance or amendment, if any, shall be prepared by the council and ordained within thirty days allowed for its action on the measure proposed by initiative petition. The mayor shall not have power to veto either of such measures. If conflicting ordinances or charter amendments shall be submitted to the people at the same election, and two or more of such conflicting measures shall be approved by the people, then the measure which shall have received the greatest number of affirmative votes shall be paramount in all particulars as to which there is conflict, even though such measure may not have received the greatest majority. Amendments to any city charter may be proposed and submitted to the people by the city council, with or without an initiative petition, but the same shall be filed with the city clerk for submission not less than sixty days before the election at which they are to be voted upon, and no amendment of a city charter shall be effective until it is approved by a majority of the votes cast thereon by the people of the city or town to which it applies. The city council may by ordinance order special elections to vote on municipal measures.

Section 13. Every person who is a qualified elector of the State of Oregon may sign a petition for the referendum or for the initiative for any measure which he is legally entitled to vote upon. Any person signing any name other than his own to any petition, or knowingly signing his name more than once for the same measure at one election, or who is not at the time of signing the same a legal voter of this State, or any officer or person wilfully violating any provision of this statute, shall, upon conviction thereof, be punished by a fine

not exceeding \$500, or by imprisonment in the penitentiary not exceeding two years, or by both such fine and imprisonment, in the discretion of the court before which such conviction shall be had.

Section 14. That an act entitled "An act making effective the initiative and referendum provisions of section 1 of article IV of the constitution of the State of Oregon, and regulating elections thereunder, and providing penalties for violations of the provisions of this act," approved February 24, 1903, Laws of Oregon, regular session, page 244, be and the same is hereby repealed.

Section 15. Whereas, there is no law to carry into effect the provisions of section 1, article IV of the constitution of Oregon, as to local, special, and municipal legislation, and of section 2 of article XI of the constitution, and because question has been raised as to power of cities to amend their charters without an enabling act, and because the act herein repealed is not effective, therefore it is the judgment of this legislative assembly that an emergency exists, and that it is necessary for the public safety that this law shall become operative upon its approval by the Governor; therefore, this act shall take effect and be in force immediately upon its approval by the Governor.

Filed in the office of the Secretary of State, February 25, 1907.

INDEX

INDEX.

	SEC.	PAGE
ACCEPTANCE—		
Of nomination.....	2796	64
AFFIDAVITS—		
Included with returns.....	2876	27
Verification by.....	2792	62
AGENTS—		
And candidates may be present.....	2817	95
AMENDMENT—		
To provide for permanent record of elections.....	1	109
To section 1878.....	1878	108
APPLICATION OF LAW—		
To cities and towns.....	6	33
APPLICABLE—		
Australian ballot law.....	2905	60
ARGUMENTS ON INITIATIVE OR REFERRED MEASURES—		
Cost of printing, how met.....	8	115
Deposit required with Secretary of State.....	8	115
Time for filing same.....	8	115
ATTORNEY-GENERAL—		
Furnished by Secretary of State with copy of referred or initiative measures.....	5	113
Shall prepare ballot titles of initiative and referred measures.....	5	113
When appeal may be taken to alter the ballot title.....	5	113
ARMY DESERTERS—		
Forfeit citizenship.....	1996	5
ARRANGEMENT—		
And notice of nomination.....	20	44
Of candidates' names on official ballot.....	23	45
Of nomination.....	2805	67
Of ballots and notice.....	21, 2806	44, 67
AUSTRALIAN BALLOT LAW—		
Provisions of.....	2905	60
BALLOTS—		
Arrangement of.....	21, 2806	44-67
Arrangement of candidates' names on.....	2809	85
Assistance in marking.....	2826	99
Boxes.....	25	51
Cancellation of names on printed.....	25, 2812	51, 92
Counting of.....	7	34
Delivery to chairman.....	2819	96
Destruction of unused official.....	2823	98
Difference between.....	2810	92
Directions as to.....	2808	68
Disposition of.....	18	43
Entry of voter's name and delivery of.....	2818	96

BALLOTS—CONTINUED—	SEC.	PAGE
Error in.....	81	54
Form of.....	2809	85
How prepared by voter.....	2819	96
In wrong box.....	2790	85
Margin of white.....	2810	92
Names of candidates for U. S. Senate to be placed thereon.....	2832	102
Official.....	2809	85
Official, number of.....	24	50
Only white, counted.....	2787	84
Partially defective.....	2789	85
Penalty for tampering with.....	2830	101
Penalty for interfering with secrecy of.....	2829	100
Preservation of stubs.....	2824	98
Printed and furnished by county clerk.....	22, 2807	45, 98
Provisions concerning.....	2785	83
Read, counted, tallied and strung.....	2783	80
Rejected.....	2788	85
Sample.....	2810	92
Sample, directions as to.....	2808	68
Sample, number of.....	24	50
Spoiling and reissue of.....	2822	98
Tampering with.....	2811	60
Vacancy after printing.....	25, 2811	51, 92
 BALLOT BOXES—		
Large and small for each precinct.....	2813	93
Provisions concerning.....	2785	83
To be opened before voting begins.....	2777	77
 BALLOT TITLES—		
For initiative or referred measures, prepared by Attorney-General.....	5	113
When appeal may be taken to alter a ballot title.....	5	113
Not to exceed one hundred words for any measure.....	5	113
Numbers of ballot titles on official ballot.....	5	114
 BLANKS—		
For registration of voters.....	1860, 2861, 2862	18-21
 BOARD OF ELECTION—		
Extra pens and pencils removed.....	2768	73
 BOOKS—		
Poll.....	5	32
 BRIBERY—		
At elections.....	7	16
Bribing or offering to bribe voter.....	1900	104
Intimidating voters by.....	5607	7
Offering valuable consideration, gift, gratuity, penalty for.....	1	108
Penalty for.....	45	59
Punishment for second crime.....	1902	104
Voter receiving bribe or promise of same.....	1901	104
 CANDIDATES—		
And agents may be present.....	2817	95
Arrangement of names on official ballot.....	23	45
Names of for U. S. Senate to be placed on ballots.....	2832	102
Register of.....	17	42
Register of, is made public record.....	18	43

	SEC.	PAGE
CANVASS—		
Of returns.....	29	52
Of votes.....	9	35
Of vote, duties of county clerk after.....	30	53
CERTIFICATES—		
How filed.....	2804	66
Of district nominations.....	2798	64
Of nomination.....	2770	75
Of nomination shall state, what.....	2794	63
Of state nomination.....	2797	64
Of district nominations.....	2798	64
To fill vacancy.....	2804	66
When filed.....	2798	64
CHALLENGE—		
As to right to vote.....	2912	61
Duty to, when.....	2879	28
Duty of judge or clerk in regard to suspect.....	2771	75
Electors considered when not registered.....	2875	26
Of elector.....	42	58
Record of.....	2775	76
Registered electors may be.....	2874	26
CHANGE OF RESIDENCE—		
Manner of proceeding on.....	2870	24
CHILDREN BORN ABROAD—		
Are citizens.....	1993	5
CIVIL RIGHTS—		
Depriving citizens of, under color of state laws, prohibited.....	5510	8
CIVIL RIGHTS CASES—		
Obstructing execution of process prohibited.....	5516	11
CITIZENSHIP—		
Certain soldiers and sailors excepted.....	1997	6
CITIZENS—		
Depriving of civil rights under color of state laws prohibited.....	5510	8
Naturalized protected in foreign states.....	2000	6
Who are.....	1992, 1993, 1994, 1995	5
Who are not.....	1996	5
CLERKS OF ELECTION—		
Absent.....	2768	78
And judges, how seated.....	2817	95
Oath of.....	2766	73
Places filled, how.....	2768	73
Provisions for primary nominating law.....	25	51
CODE—		
Repealing certain sections of.....	46	60
CONSPIRACY—		
To prevent accepting or holding office prohibited.....	5518	11
To deprive persons of equal protection of the law prohibited.....	5519	12
To injure or intimidate citizens prohibited.....	5508-5509	8
CONTEST—		
For precinct officers.....	36	56
How heard.....	35	55
How tried and decided.....	37	56
Notice of.....	34	55
Trial, etc.....	36-37	56

COUNTY CLERK—	SEC.	PAGE
Absent elector may be registered by.....	2869	24
After canvass of votes, duties of.....	30	53
Ballots printed and furnished by.....	2807	68
Ballots printed and furnished by for primary election.....	22	45
Duty of.....	4	32
Duty of as to registration of electors.....	2860-2863	18-21
Must enter elector's name.....	2865	21
In counties without clerks of county court may act.....	2781	78
To register electors.....	39	58
CONSTRUCTION—		
Of direct primary nominating law.....	1	30
Of law.....	8	35
COUNT—		
Error in.....	31	54
COMMITTEEMEN—		
To be elected by each party.....	43	58
DEFINITION—		
Of political party.....	11	38
DESERTER—		
Definition or.....	1998	6
From army, forfeits citizenship.....	1996	5
DIRECT PRIMARY NOMINATING ELECTION LAW—		
Direct primary nominating.....		23
DUELING—		
Penalty for.....	9	16
DUTY—		
And qualifications of election judges.....	2763	70
Of county clerk.....	4	32
Of county clerk after canvass of vote.....	30	53
To challenge voter, when.....	2879	28
ELECTIONS—		
Bribery at.....	7	16
But one person in booth at one time.....	2825	98
By each party, committeemen to be.....	43	58
By legislative assembly, how votes to be given.....	15	17
Canvass of votes, electoral college.....	2858	108
Compensation of electors.....	2859	108
Compensation of officers.....	2780	78
Conduct of and count.....	2762	74
Day, disposing of liquor on.....	1975	107
Direct primary nominating law.....		23
Disorderly conduct at polls.....	1912	107
Fines, how disposed of.....	1976	103
Fraudulently voting at.....	5511	8
Judges.....	2763	70
Legislature assembled to enact laws.....	8	16
Military or naval officers not to interfere with.....	5531	13
Mutilation of papers.....	2831	101
Negligence or corruption of officers of.....	1911	107
Notice of.....	2765	71
Notice of primary.....	4	32
Of presidential electors.....	2856	108
Of presidential electors, when to convene.....	2857	108

ELECTIONS—CONTINUED—

	SEC.	PAGE
Officers to be elected.....	2761	69
Penalty for disposing of liquor on election day.....	1975	107
Plurality elects.....	16	17
Powers of judges to punish offences.....	2779	77
Precincts.....	3, 2762	31, 69
Providing for permanent record of elections and votes.....	2833a	109
Sheriff to receipt for.....	2815	94
Supplies, etc.....	27	51
Supplies furnished.....	2314	93
Supplies and delivery by sheriff.....	25	51
Supplies furnished by Secretary of State.....	2828	100
Time for holding primary.....	2	31
Time of.....	2761	69
Time of holding of.....	14	17
Troops at, unlawful.....	5528	12
Vacancies of electoral college.....	2857	103
Violations of act to be reported to grand jury.....	1976	106
Violation of duties by officers at.....	5515	10

ELECTORS (See also VOTERS)—

Absent elector may be registered by the clerk.....	2869	24
Challenge of.....	42	58
Considered challenged when not registered.....	2875	28
County Clerk to register.....	39	58
Duty of.....	2857	103
Election of presidential.....	2856	103
Idiota, insane, convicts, not.....	3	15
Importing voters, penalty for.....	1907	106
Inducing voters to absent themselves, penalty for.....	1908	106
Inducing voters to stay away from polls, penalty for.....	1909	106
Intimidation of voters by corporations, etc.....	1906	106
Must appear personally to register, when.....	2878	27
Names of, to be certified.....	2782	79
Negroes, Chinamen or mulattoes, not.....	6	15
Nomination by.....	2791	62
Oath and examination of.....	2772	15
Oath of, when registering.....	2861	18
One person in booth at one time.....	2825	98
Penalty for violating long section 1905.....	1906	106
Percentage of, required on petition.....	14	41
Presidential, compensation of.....	2859	103
Presidential, duty of.....	2857	103
Presidential, when to convene.....	2857	103
Presidential, vacancy.....	2857	103
Preventing persons from voting by violence, punishment of.....	1904	105
Privileges of.....	18	17
Qualification and residence of.....	2871	25
Qualifications of.....	2	14
Qualifications of nominating.....	2795	63
Refusal to answer.....	2773	75
Registration of.....	38, 40, 2890	5, 57, 58
Registered electors may be challenged.....	2874	26
Residence.....	4	15
Soldiers, seamen, and marines, not.....	5	15
To nominate, percentage of.....	2793	62
Voting or offering to vote illegally.....	1903	105
Violating sections 1907, 1908, 1909, penalty for.....	1910	106

ERROR—	SEC.	PAGE
In ballot or count.....	81	54
EXAMINATION—		
And oath of elector	2772	75
EXPATRIATION—		
Right of, declared.....	1999	6
FORM—		
Of official ballot.....	23	45
Of tally sheet.....	2784	81
Of petition for nomination.....	13	39
FRAUDULENT—		
Registration	5512	9
Voting at elections	5511	8
INITIATIVE AND REFERENDUM—		
An act		109
Abstract of votes, etc., returned to Secretary.....	9	116
Court may compel Secretary of State to accept and file petitions....	4	112
Duty of Governor.....	9	116
Emergency clause	15	119
Filing of petition with city clerk and duty of.....	12	117
Form of affidavit.....	3	112
General form.....	2	110
General applicability to cities and towns	10	116
Manner of voting upon measures.....	7	114
Petition for referendum, form of.....	1	109
Percentage required to petition against ordinances, etc., passed by city council	11	117
Penalty for fraudulent signatures.....	13	118
Repeal of provisions in violation	14	119
Secretary of State shall transmit to Attorney-General copy of peti- tion	5	118
Secretary of State shall furnish county clerks certified copy of measures to be voted upon.....	6	118
Secretary of State shall print title and text of each measure sub- mitted, time	8	114
Who may sign petition	13	118
INTIMIDATION—		
Of voters by officers, etc., of army or navy.....	5529	12
Of voters by bribery, threat, etc.	1878	108
JUDGES OF ELECTION—		
Absent	2767	73
Additional and their meetings.....	2764	70
And clerks, how seated.....	2817	95
List of, to be posted	2765	71
Oath of.....	2766	73
Official seals, not used, to be burned.....	2783	81
Place, how filled.....	2767	73
Powers of, at election.....	2779	77
Provisions for primary nominating elections law.....	25	51
Qualifications and duties.....	2763	70
LAW—		
Application of, to cities and towns.....	6	33
Construction of.....	1, 8	30, 35
Direct primary nominating elections.....		23

	SEC.	PAGE
LUCRATIVE OFFICES—		
Persons holding under United States not eligible to certain offices.....	10-11	16
MARRIED WOMEN—		
Are citizens.....	1904	5
NAME—		
Party, to be given.....	38	57
NATURALIZED CITIZENS—		
Protected in foreign states.....	2000	6
NOTARY—		
Registration may be made before.....	2868	28
NOMINATION—		
Acceptance of.....	2796	64
Arrangement and notice of.....	20, 2805	44, 67
By political party or electors.....	2791	62
Certificates of.....	2792, 2770	62, 75
Certificates of district.....	2798	65
Certificates of state.....	2797	64
Form of petition for.....	13	39
Of U. S. Senator.....	28	52
Percentage of electors required.....	2798	62
Petitions for to be filed.....	12	39
Qualifications of electors.....	2795	63
Register of.....	2799	65
Time for filing petitions for.....	16	42
To fill vacancy.....	2803	66
When filed.....	2797-2798	64
What certificates shall state.....	2794	63
Withdrawing.....	2801	65
NOTICE—		
Arrangement of.....	21, 2806	44, 67
Of election.....	2765	71
Of contest.....	34	55
Of death or withdrawal.....	19, 2802	48, 66
Of nomination.....	2805	67
Of nominations and arrangement.....	20	44
Of primary elections.....	4	32
Service of.....	85	55
OATH—		
And examination of elector.....	2772	75
Of judges and clerks.....	2766	73
Of qualification to vote.....	2774	75
The nature of.....	2912	61
OFFICERS—		
Compensation of election.....	2780	78
Contest for precinct.....	36	56
Not to be obstructed with execution of process.....	5516	11
Not to refuse to receive or execute process.....	5517	11
What is violation of duty at election.....	5515	10
OFFICIAL BALLOT—		
Arrangement of candidates' names.....	23	45
Form of.....	23	45
Number of.....	24	50
OFFICIAL MISCONDUCT—		
Penalty for.....	33	55

OFFICIAL SEALS AT ELECTIONS—		SEC.	PAGE
Those not used to be burned.....		2788	81
PENALTY—			
For official misconduct.....	38, 2838	55, 102	
For voting illegally.....	2911	60	
For violations of law.....	42, 44	58, 59	
For interfering with voter.....	2827	99	
For interfering with secrecy of ballot.....	2829	100	
For tampering with ballot.....	2830	101	
For mutilation of election papers.....	2831	101	
For violation of act by officers.....	2877	27	
For bribery, etc.....	45	59	
For bribery, intimidation, threat of injury, etc., and penalty.....	1878	108	
For voting or offering to vote illegally.....	1903	105	
For preventing persons from voting by violence.....	1904	105	
For intimidation of voters by corporations.....	1905	105	
For violating section 1905.....	1906	106	
For importing voters.....	1907	106	
For violating sections 1907, 1908, 1909.....	1910	106	
For negligence or corruption of officers.....	1911	107	
For disorderly conduct at polls.....	1912	107	
For disposing of liquor on election day.....	1975	107	
Giving information as to vote.....	2827	99	
Inducing voters to absent themselves.....	1908	106	
Inducing voters to stay away from polls.....	1909	106	
Prescribed for second crime.....	1902	104	
PETITIONERS—			
Qualifications of.....	15	42	
PETITIONS—			
Form of, for nomination.....	18	39	
Percentage of electors required on.....	14	41	
Time for filing for nominations.....	16	42	
To be filed for nomination.....	12	31	
PERCENTAGE—			
Of electors required on petition.....	14	41	
Of electors to nominate.....	2793	62	
POLL BOOKS—			
Custody of.....	2786	84	
Disposition of.....	18	43	
Form of.....	2782	71	
To be sealed and returned.....	10	37	
POLLS—			
Arrangement and provisions for.....	2816	14	
Books.....	5, 2769	32, 34	
Opening and closing.....	5	32	
Place of.....	3, 25	31, 51	
Restrictions within 50 feet.....	2778	77	
POLITICAL PARTY—			
Defined.....	11	38	
Nomination by.....	2791	62	
PRECINCT REGISTERS—			
What to contain.....	2867	23	

INDEX.

131

	SEC.	PAGE
PRECINCT—		
Election	3	31
Registers	2876	27
Registers contain what	2867	23
PRIMARY ELECTIONS—		
Notice of	4	32
PRINTING ARGUMENTS—		
Money to cover cost to be deposited with Secretary of State	8	115
Residue, if any, to be returned to depositor	8	115
Time in which arguments must be filed	8	115
PUBLIC RECORD—		
Registers are	2873	25
Register of candidates is	18	43
QUESTIONS—		
Refusal to answer	2912	61
QUALIFICATION—		
And duties of election judges	2763	70
Oath of, to vote	2774	75
Of electors	2871	25
Of nominating electors	2715	63
Of petitioners	15	42
Rules to determine	2776	76
REGISTERS—		
Are public records	2873	25
Closed, when	41, 2872	25, 58
Precinct and affidavits included with returns	2876	27
REGISTRATION—		
Absent elector may be registered by the clerk	2869	24
Before a notary	2868	23
Electors considered challenged, when not	2875	26
Electors may be challenged	2874	26
Fraudulent	5512	9
Of electors	38-40	57-58
Manner of	2866	22
Time of	2864	21
What constitutes	5512-5513	9-10
RESIDENCE—		
Manner of proceeding on change of	2870	24
Of electors	4	15
RECORDS—		
Copies of	2800	65
Of elections, of votes cast at	2833a	109
REGISTER—		
Electors, county clerk to	39	58
Electors must personally appear, when	2878	27
Of candidates	17	42
Of nominations	2799	65
RESIDENCE—		
Of electors	2871	25
REMONSTRANCES—		
To appointment of judges and clerks	2765	71
REPEAL—		
Certain sections of Code	46	60

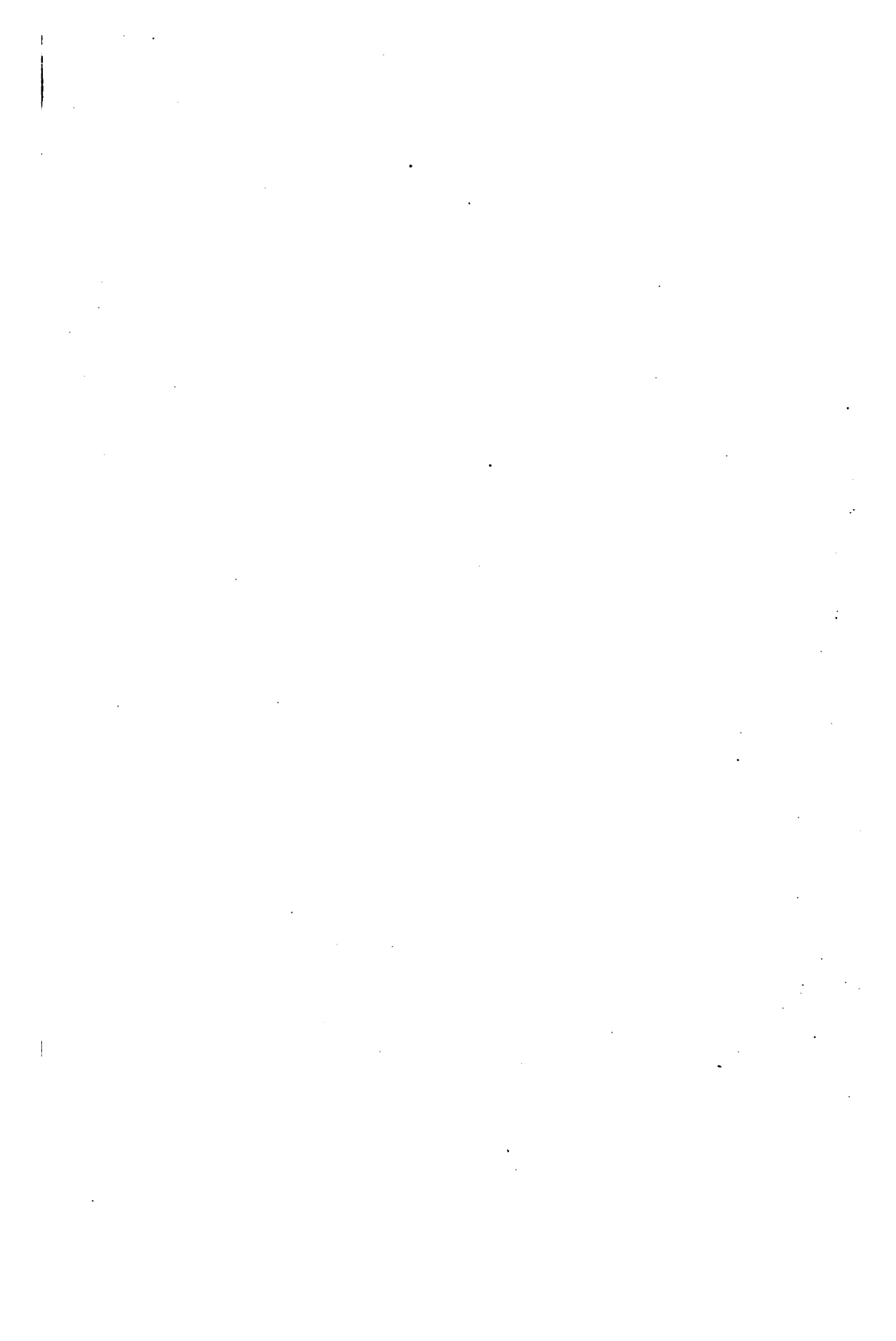
REGISTER—	SEC.	PAGE
Of candidates is public record	18	43
RECORD—		
Of challenge	2775	76
REGISTRATION OF ELECTORS—		
Form of blanks for	2862	19
Manner of	2860-61	18
Time of	2864	21
RETURNS—		
Canvass of	29	52
Precinct registers and affidavits included with	2876	27
Secretary of State may send for	32	55
SAMPLE BALLOTS—		
Number of	24	50
SECRETARY OF STATE—		
Election supplies furnished by	2828	100
May send for returns	32	55
Shall have printed the title and text of each measure submitted to voters	8	114
Shall require deposit from parties furnishing arguments to be printed for or against measures	8	115
STUBS—		
Preservation of	2824	98
SHERIFF—		
Election supplies delivered by	25	51
To receipt for supplies	2815	94
TRIAL—		
How decided	37	56
Manner of	37	56
Trial, etc.	36	56
TIME—		
For filing petitions for nomination	16	42
Of opening and closing polls	5	32
THREATS—		
Intimidating voters by	5507	7
TALLY SHEETS—		
Custody of	2786	84
Disposition of	18	43
Form of	9, 2784	35, 31
How made and certified	2784	81
Provisions concerning	2785	83
To be sealed and returned	10	37
UNITED STATES SENATOR—		
Nomination of	28	52
VACANCY—		
After printing ballots	25, 2811	51, 92
Certificate to fill	2804	66
Nomination to fill	2803	66
VOTE—		
Duties of county clerk after canvass of	30	53
Voting or off-ring to, illegally	1903	106

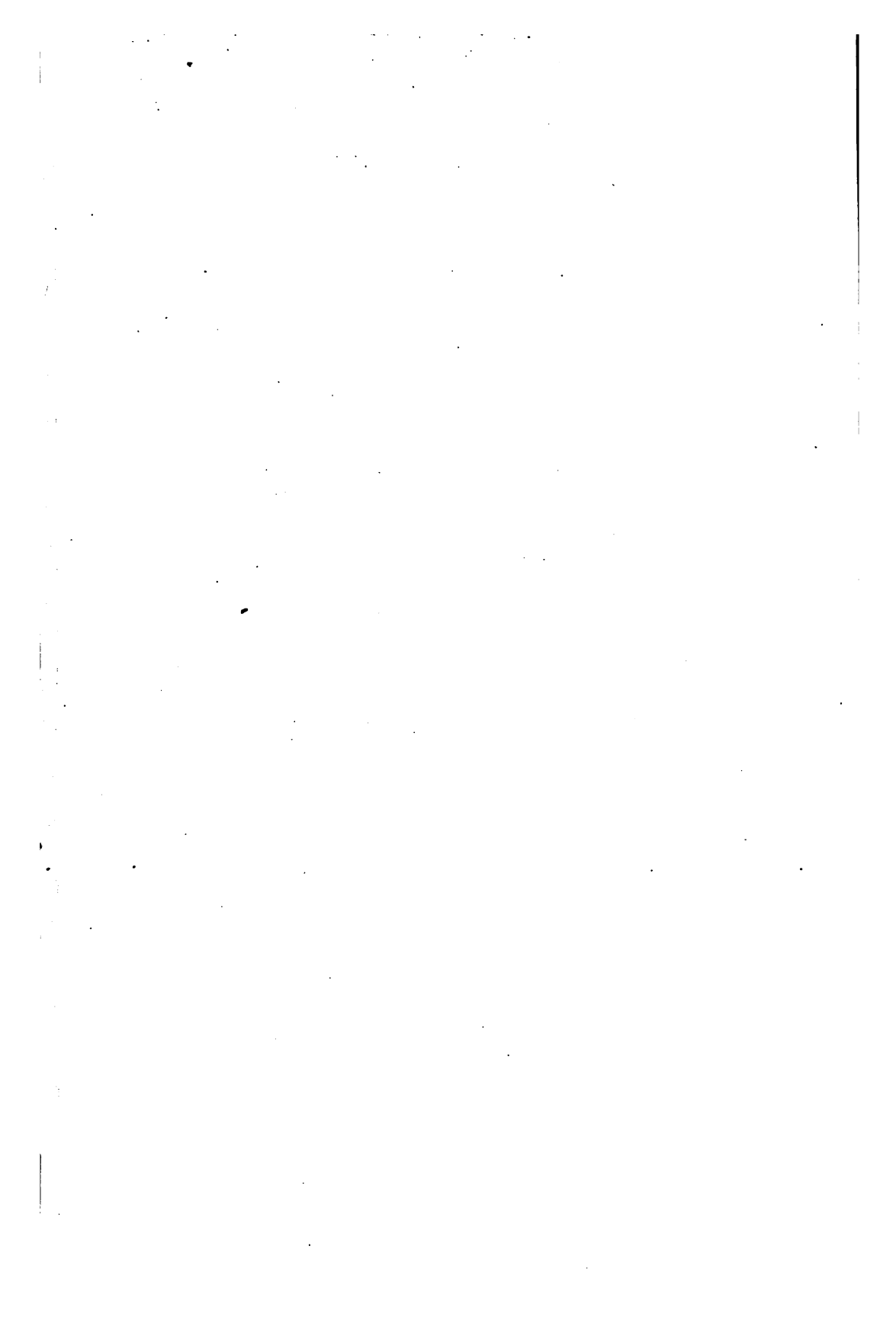
VOTING—		
Begins, ballot boxes to be opened before.....	SEC. 2777	PAGE 77
Duties of county clerk after canvass of.....	30	58
For state, or state and district officers.....	2821	97
Fraudulently.....	5511	8
Keys to ballot boxes.....	2777	77
Manner of.....	26-27, 2820	51, 97
Place of.....	17	17
What is.....	5514	10
What is attempt or offering to vote.....	5514	10
VOTES—		
Canvass of.....	9	85
Canvass of, electoral college.....	2858	108
Plurality elects.....	16	17
VIOLATION—		
Of act by officers, penalty for.....	2877	27
Of duty by officer at election.....	1515	10
Of law, penalty for.....	42-44	58-58
VOTERS (See also ELECTORS—		
Attempt to vote, by rejected.....	2912	61
Ballot, how prepared by.....	2819	96
Bribing or offering to bribe.....	1900	104
Corruption, intimidation, threatened injury of officers, penalty for.....	1	108
Definition of.....	1902	104
Duty to challenge, when.....	2879	28
Giving information as to vote.....	2827	99
Illegal, penalty for.....	2911	60
Improperly influencing.....	2911	60
Interfering with.....	2827	99
Interference by army and naval officers prohibited.....	2008	7
Intimidation of, by officers, etc., by army or navy.....	5529	12
Intimidating by bribery or threats.....	5507	7
Name, entry of.....	2818	96
Name must be entered by County Clerk.....	2865	21
Negroes, Chinamen, or mulattoes, not.....	6	15
One person in booth at one time.....	2825	98
Penalty therefor.....	2827	99
Privileges of.....	18	17
Punishment for second crime.....	1902	104
Qualifications of.....	2	14
Qualifications of, not to be prescribed by officers of army or navy.....	5580	12
Race color or previous condition not to affect right to vote.....	2004	7
Receiving bribe or promise of.....	1901	104
Soldiers, seamen, and marines, no privileges as.....	5	15
WITHDRAWAL—		
Notice of.....	19	43



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